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STATE BOARD OF SOCIAL SERVICES

Titles of Regulations: **22 VAC 40-71. Standards and Regulations for Licensed Assisted Living Facilities (REPEALED).**

22 VAC 40-72. Standards for Licensed Assisted Living Facilities (adding 22 VAC 40-72-10 through 22 VAC 40-72-1160).

CHAPTER 72.
STANDARDS FOR LICENSED ASSISTED LIVING FACILITIES.

PART I.
GENERAL PROVISIONS.

22 VAC 40-72-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Activities of daily living (ADLs)" means bathing, dressing, toileting, transferring, bowel control, bladder control and eating/feeding. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

"Administer medication" means to open a container of medicine or to remove the prescribed dosage and to give it to the resident for whom it is prescribed.

"Administrator" means the licensee or a person designated by the licensee who oversees the day-to-day operation of the facility, including compliance with all regulations for licensed assisted living facilities.

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 of the Code of Virginia or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provisions of § 54.1-2983 of the Code of Virginia. The individual or his legal representative can rescind the document at any time.

NOTE: See § 54.1-2985 of the Code of Virginia regarding rescinding an advance directive and § 54.1-2987.1 of the Code of Virginia regarding rescinding a Durable Do Not Resuscitate Order.

"Ambulatory" means the condition of a resident who is physically and mentally capable of self-preservation by evacuating in response to an emergency to a refuge area as defined by 13 VAC 5-63, the Virginia Statewide Building Code, without the assistance of another person, or from the structure itself without the assistance of another person if there is no such refuge area within the structure, even if such resident may require the assistance of a wheelchair, walker, cane, prosthetic device, or a single verbal command to evacuate.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least moderate assistance with the activities of daily living. Included in this level of service are individuals who are dependent in behavior pattern (i.e., abusive, aggressive, disruptive) as documented on the uniform assessment instrument.

"Assisted living facility" means, as defined in § 63.2-100 of the Code of Virginia, any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214 of the Code of Virginia, when such facility is licensed by the department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia, but including any portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

NOTE: Assuming responsibility for the well-being of residents, either directly or through contracted agents, is considered "general supervision and oversight."

"Behavior management" means those principles and methods employed by a provider to help an individual receiving services to achieve a positive outcome and to address and correct inappropriate behavior in a constructive and safe manner. Behavior management principles and methods must be employed in accordance with the individualized service plan and written policies and procedures governing service expectations, treatment goals, safety and security.

"Building" means a structure with exterior walls under one roof.

"Cardiopulmonary resuscitation (CPR)" means an emergency procedure consisting of external cardiac massage and artificial respiration; the first treatment for a person who has collapsed and has no pulse and has stopped breathing; and attempts to restore circulation of the blood and prevent death or brain damage due to lack of oxygen.

"Case management" means multiple functions designed to link clients to appropriate services. Case management may include a variety of common components such as initial screening of needs, comprehensive assessment of needs, development and implementation of a plan of care, service monitoring, and client follow-up.

"Case manager" means an employee of a public human services agency who is qualified and designated to develop and coordinate plans of care.

"Chemical restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat the resident's medical symptoms or symptoms from mental illness or mental retardation, that prohibits an individual from reaching his highest level of functioning.

"Commissioner" means the commissioner of the department, his designee or authorized representative.

"Community services board" or "CSB" means a citizens' board established pursuant to § 37.2-501 of the Code of Virginia that provides mental health, mental retardation and substance abuse programs and services within the political subdivision or political subdivisions participating on the board.

"Conservator" means a person appointed by the court who is responsible for managing the estate and financial affairs of an incapacitated person and, where the context plainly indicates, includes a "limited conservator" or a "temporary conservator." The term includes a local or regional program designated by the Department for the Aging as a public conservator pursuant to Article 2 (§ 2.2-711 et seq.) of Chapter 7 of Title 2.2 of the Code of Virginia.

"Continuous licensed nursing care" means around-the-clock observation, assessment, monitoring, supervision, or provision of medical treatments provided by a licensed nurse. Residents requiring continuous licensed nursing care may include:

1. Individuals who have a medical instability due to complexities created by multiple, interrelated medical conditions; or

2. Individuals with a health care condition with a high potential for medical instability.

"Department" means the State Department of Social Services.

"Department's representative" means an employee or designee of the State Department of Social Services, acting as an authorized agent of the Commissioner of Social Services.

"Direct care staff" means supervisors, assistants, aides, or other employees of a facility who assist residents in the performance of personal care and daily living activities. Examples are likely to include nursing staff, activity staff, geriatric or personal care assistants, medication aides, and mental health workers but are not likely to include waiters, chauffeurs, cooks, and dedicated housekeeping, maintenance and laundry personnel.

"Discharge" means the movement of a resident out of the assisted living facility.

"Emergency" means, as it applies to restraints, a situation that may require the use of a restraint where the resident's behavior is unmanageable to the degree an immediate and serious danger is presented to the health and safety of the resident or others.

"Emergency placement" means the temporary status of an individual in an assisted living facility when the person's health and safety would be jeopardized by not permitting entry into the facility until the requirements for admission have been met.

"Employees" mean personnel working at a facility who are compensated or have a financial interest in the facility, regardless of role, service, age, function or duration of employment at the facility. Employees also include those individuals hired through a contract to provide services for the facility.

"Good character and reputation" means findings have been established and knowledgeable, reasonable, and objective people agree that the individual (i) maintains business or professional, family, and community relationships that are characterized by honesty, fairness, truthfulness, and dependability; and (ii) has a history and pattern of behavior that demonstrates the individual is suitable and able to administer a program for the care, supervision, and protection of adults. Relatives by blood or marriage and persons who are not knowledgeable of the individual, such as recent acquaintances, may not act as references.

"Guardian" means a person who has been legally invested with the authority and charged with the duty of taking care of the person, managing his property and protecting the rights of the person who has been declared by the circuit court to be incapacitated and incapable of administering his own affairs. The powers and duties of the guardian are defined by the court and are limited to matters within the areas where the person in need of a guardian has been determined to be incapacitated.

"Habilitative service" means activities to advance a normal sequence of motor skills, movement, and self-care abilities or to prevent unnecessary additional deformity or dysfunction.

"Health care provider" means a person, corporation, facility or institution licensed by this Commonwealth to provide health care or professional services such as a physician or hospital, dentist, pharmacist, registered or licensed practical nurse, optometrist, podiatrist, chiropractor, physical therapist, physical therapy assistant, clinical psychologist, or health maintenance organization. This list is not all inclusive.

"High risk behavior" means any behavior, including an expressed intent, that exposes, or has the potential to expose, the person exhibiting the behavior, or those being exposed to the behavior, to harm. Examples of high risk behaviors include, but are not limited to, the following: physically assaulting others or gesturing, making suicidal attempts, verbalizing a threat to harm self or others, verbalizing an unrealistic fear of being harmed by others, destroying property that exposes self or others to harm,

wandering in or outside of the facility, being intrusive in the personal space of others, putting objects or liquids in the mouth that are mistaken as food or consumable fluids, increased physical activity such as floor pacing that might indicate anxiety or stress, increased or confusing speech pattern or communications that might indicate a disorder of thought process, decreased physical activity such as staying in bed, not eating, or not communicating that might indicate depression.

"Household member" means any person domiciled in an assisted living facility other than residents or employees.

"Imminent physical threat or danger" means clear and present risk of sustaining or inflicting serious to life threatening injuries.

"Independent clinical psychologist" means a clinical psychologist who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer or employee or as an independent contractor with the facility.

"Independent living environment" means one in which the resident or residents perform all activities of daily living and instrumental activities of daily living for themselves without requiring the assistance of another person.

"Independent living status" means that the resident is assessed as capable of performing all activities of daily living and instrumental activities of daily living for himself without requiring the assistance of another person. (If the policy of a facility dictates that medications are administered or distributed centrally without regard for the residents' capacity, this shall not be considered in determining independent status.)

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the facility.

NOTE: "Physician" is defined later in this section.

"Individualized service plan (ISP)" means the written description of actions to be taken by the licensee, including coordination with other services providers, to meet the assessed needs of the resident.

"Instrumental activities of daily living (IADLs)" means meal preparation, housekeeping, laundry, and managing money. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

"Intermittent intravenous therapy" means therapy provided by a licensed health care professional at medically predictable intervals for a limited period of time on a daily or periodic basis.

"Legal representative" means a person legally responsible for representing or standing in the place of the resident for the conduct of his affairs. This may include a guardian, conservator, attorney-in-fact under durable power of attorney, trustee, or other person expressly named by a court of competent jurisdiction or the resident as his agent in a legal document that specifies the scope of the representative's authority to act. A legal representative may only represent or stand in the place of a resident for the function or functions for which he has legal authority to act.

NOTE: A resident is presumed competent and is responsible for making all health care, personal care, financial, and other personal decisions that affect his life unless a representative with legal authority has been appointed by a court of competent jurisdiction or has been appointed by the resident in a properly executed and signed document. A resident may have different legal representatives for different functions.

NOTE: For any given standard, the term legal representative applies solely to the legal representative with the authority to act in regard to the function or functions relevant to that particular standard.

"Licensed health care professional" means any health care professional currently licensed by the Commonwealth of Virginia to practice within the scope of his profession, such as a nurse practitioner, registered nurse, licensed practical nurse, (nurses may be licensed or hold multistate licensure pursuant to § 54.1-3000 of the Code of Virginia), clinical social worker, dentist, occupational therapist, pharmacist, physical therapist, physician, physician assistant, psychologist, and speech-language pathologist.

NOTE: Responsibilities of physicians contained within this chapter may be implemented by nurse practitioners or physician assistants as assigned by the supervising physician and within the parameters of professional licensing.

"Licensee" means any person, association, partnership or corporation to whom the license is issued.

"Manager" means a designated person who serves as a manager pursuant to 22 VAC 40-72-220 and 22 VAC 40-72-230.

"Mandated reporter" means the following persons acting in their professional capacity who have reason to suspect abuse, neglect or exploitation of an adult:

1. Any person licensed, certified, or registered by health regulatory boards listed in § 54.1-2503 of the Code of Virginia, with the exception of persons licensed by the Board of Veterinary Medicine;

2. Any mental health services provider as defined in § 54.1-2400.1 of the Code of Virginia;

3. Any emergency medical services personnel certified by the Board of Health pursuant to § 32.1-111.5 of the Code of Virginia;

4. Any guardian or conservator of an adult;

5. Any person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity;

6. Any person providing full, intermittent or occasional care to an adult for compensation, including but not limited to companion, chore, homemaker, and personal care workers; and

7. Any law-enforcement officer.

This is pursuant to § 63.2-1606 of the Code of Virginia.

"Maximum physical assistance" means that an individual has a rating of total dependence in four or more of the seven activities of daily living as documented on the uniform assessment instrument.

NOTE: An individual who can participate in any way with performance of the activity is not considered to be totally dependent.

"Medication aide" means a staff person who has successfully completed (i) one of the five requirements specified in 22 VAC 40-72-250 C 1 through 5, with an exception allowed if responsible for medication administration prior to (insert the effective date of these standards), and (ii) the medication training program developed by the department and approved by the Board of Nursing.

"Mental impairment" means a disability that reduces an individual's ability to reason, make decisions, or engage in purposeful behavior.

"Mentally ill" means any person afflicted with mental disease to such an extent that for his own welfare or the welfare of others he requires care and treatment, or with mental disorder or functioning classifiable under the diagnostic criteria from the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association, Fourth Edition, Text Revision, 2000, or subsequent editions, that affects the well-being or behavior of an individual.

"Mentally retarded" means substantial subaverage general intellectual functioning that originates during the development period and is associated with impairment in adaptive behavior. It exists concurrently with related limitations in two or more of the following applicable adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure, and work.

"Minimal assistance" means dependency in only one activity of daily living or dependency in one or more of the instrumental activities of daily living as documented on the uniform assessment instrument.

"Moderate assistance" means dependency in two or more of the activities of daily living as documented on the uniform assessment instrument.

"Nonambulatory" means the condition of a resident who by reason of physical or mental impairment is not capable of self-preservation without the assistance of another person.

"Nonemergency" means, as it applies to restraints, circumstances that may require the use of a restraint for the purpose of providing support to a physically weakened resident.

"Outbreak" means a sudden rise in the incidence of a disease or symptoms above expected levels, or the occurrence of a large number of cases of a disease or symptoms in a short period of time. There is not a specific number or percentage that always constitutes an outbreak because the level of risk is dependent upon the severity of the disease or the intensity of the symptoms.

"Physical impairment" means a condition of a bodily or sensory nature that reduces an individual's ability to function or to perform activities.

"Physical restraint" means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the resident cannot remove easily, which restricts freedom of movement or access to his body.

"Physician" means an individual licensed to practice medicine in any of the 50 states or the District of Columbia.

"Private pay" means that a resident of an assisted living facility is not eligible for benefits under the Auxiliary Grants Program.

"Psychopharmacologic drug" means any drug prescribed or administered with the intent of controlling mood, mental status or behavior. Psychopharmacologic drugs include not only the obvious drug classes, such as antipsychotic, antidepressants, and the antianxiety/hypnotic class, but any drug that is prescribed or administered with the intent of controlling mood, mental status, or behavior, regardless of the manner in which it is marketed by the manufacturers and regardless of labeling or other approvals by the Food and Drug Administration.

"Public pay" means that a resident of an assisted living facility is eligible for benefits under the Auxiliary Grants Program.

"Qualified" means having appropriate training and experience commensurate with assigned responsibilities; or if referring to a professional, possessing an appropriate degree or having documented equivalent education, training or experience.

NOTE: Specific definitions for qualified assessor and qualified mental health professional are included in this section.

"Qualified assessor" means an individual who is authorized to perform an assessment, reassessment, or change in level of care for an applicant to or resident of an assisted living facility. For public pay individuals, a qualified assessor is an employee of a public human services agency trained in the completion of the uniform assessment instrument. For private pay individuals, a qualified assessor is an employee of the assisted living facility trained in the completion of the UAI or an independent private physician or a qualified assessor for public pay individuals.

"Qualified mental health professional" means a clinician in the health professions who is trained and experienced in providing psychiatric or mental health services to individuals who have a psychiatric diagnosis, including and limited to (i) a physician: a doctor of medicine or osteopathy; (ii) a psychiatrist: a doctor of medicine or osteopathy, specializing in psychiatry and licensed in Virginia; (iii) a psychologist: an individual with a master's degree in psychology from a college or university accredited by an association recognized by the U.S. Secretary of Education, with at least one year of clinical experience; (iv) a social worker: an individual with at least a bachelor's degree in human services or related field (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, or human services

counseling) from an college or university accredited by an association recognized by the U.S. Secretary of Education, with at least one year of clinical experience providing direct services to persons with a diagnosis of mental illness; (v) a Registered Psychiatric Rehabilitation Provider (RPRP) registered with the International Association of Psychosocial Rehabilitation Services (IAPSRS); (vi) a registered nurse licensed in the Commonwealth of Virginia with at least one year of clinical experience working in a mental health treatment facility or agency; (vii) any other licensed mental health professional; or (viii) any other person deemed by the Department of Mental Health, Mental Retardation and Substance Abuse Services as having qualifications equivalent to those described in this definition.

"Rehabilitative services" means activities that are ordered by a physician or other qualified health care professional that are provided by a rehabilitative therapist (physical therapist, occupational therapist or speech-language pathologist). These activities may be necessary when a resident has demonstrated a change in his capabilities and are provided to enhance or improve his level of functioning.

"Resident" means any adult residing in an assisted living facility.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. Included in this level of service are individuals who are dependent in medication administration as documented on the uniform assessment instrument. This definition includes the services provided by the facility to individuals who are assessed as capable of maintaining themselves in an independent living status.

"Respite care" means services provided for maintenance and care of aged, infirm or disabled adults for temporary periods of time, regularly or intermittently. Facilities offering this type of care are subject to this chapter.

"Restorative care" means activities designed to assist the resident in reaching or maintaining his level of potential. These activities are not required to be provided by a rehabilitative therapist and may include activities such as range of motion, assistance with ambulation, positioning, assistance and instruction in the activities of daily living, psychosocial skills training, and reorientation and reality orientation.

"Risk management" means a planned set of strategies intended to eliminate or reduce potential or actual harm to persons from risks to their person or well-being, including but not limited to, environmental and physical hazards, harm from others or from self.

"Safe, secure environment" means a self-contained special care unit for individuals with serious cognitive impairments due to a primary psychiatric diagnosis of dementia who cannot recognize danger or protect their own safety and welfare. Means of egress that lead to unprotected areas must be monitored or secured through devices that conform to applicable building and fire safety standards, including but not limited to door alarms, cameras, constant employee oversight, security bracelets that are part of an alarm system, pressure pads at doorways, delayed egress mechanisms, locking devices or perimeter fence gates. There may be one or more self-contained special care units in a facility or the whole facility may be a special care unit. NOTE: Nothing in this definition limits or contravenes the privacy protections set forth in § 63.2-1808 of the Code of Virginia.

"Sanitizing" means treating in such a way to remove bacteria and viruses through using a disinfectant solution (e.g., bleach solution or commercial chemical disinfectant) or physical agent (e.g., heat).

"Serious cognitive impairment" means severe deficit in mental capability of a chronic, enduring or long-term nature that affects areas such as thought processes, problem-solving, judgment, memory, and comprehension and that interferes with such things as reality orientation, ability to care for self, ability to recognize danger to self or others, and impulse control. Such cognitive impairment is not due to acute or episodic conditions, nor conditions arising from treatable metabolic or chemical imbalances or caused by reactions to medication or toxic substances.

"Significant change" means a change in a resident's condition that is expected to last longer than 30 days. It does not include short-term changes that resolve with or without intervention, a short-term acute illness or episodic event, or a well-established, predictive, cyclic pattern of clinical signs and symptoms associated with a previously diagnosed condition where an appropriate course of treatment is in progress.

"Skilled nursing treatment" means a service ordered by a physician that is provided by and within the scope and practice of a licensed nurse.

"Skills training" means systematic skill building through curriculum-based psychoeducational and cognitive-behavioral interventions. These interventions break down complex objectives for role performance into simpler components, including basic cognitive skills such as attention, to facilitate learning and competency.

"Substance abuse" means the use, without compelling medical reason, of alcohol or other legal or illegal drugs that results in psychological or physiological dependency or danger to self or others as a function of continued use in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior.

"Systems review" means a physical examination of the body to determine if the person is experiencing problems or distress, including cardiovascular system, respiratory system, gastrointestinal system, urinary system, endocrine system, musculoskeletal system, nervous system, sensory system and the skin.

"Transfer" means movement of a resident to a different assigned living area within the same licensed facility.

"Uniform assessment instrument (UAI)" means the department designated assessment form. There is an alternate version of the form that may be used for private pay residents. Social and financial information that is not relevant

because of the resident's payment status is not included on the private pay version of the form.

22 VAC 40-72-20. Legal base and applicability.

A. Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2 of the Code of Virginia include requirements of law relating to licensure, including licensure of assisted living facilities.

B. This regulation applies to assisted living facilities as defined in § 63.2-100 of the Code of Virginia and in 22 VAC 40-72-10.

1. Each assisted living facility shall comply with Parts I (22 VAC 40-72-10 et seq.) through IX (22 VAC 40-72-930 et seq.) of this regulation.

2. An assisted living facility that cares for adults with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare shall also comply with Part X (22 VAC 40-72-980 et seq.) of this regulation.

22 VAC 40-72-30. Dedicated hospice facilities.

A. Providers operating an assisted living facility that is a dedicated hospice facility shall maintain compliance with both the department's regulations for the licensure of assisted living facilities and the Department of Health's regulations for the licensure of hospice.

B. When applicable regulations for licensure of assisted living facilities and licensure of hospice are similar, the more stringent regulation shall take precedence.

C. At the time of submission of a renewal application for an assisted living facility license, providers operating a dedicated hospice facility shall include a copy of all inspection reports and plans of correction for the licensed hospice for the previous assisted living facility licensure period. These reports may be taken into consideration in the department's decision to renew an assisted living facility's license.

22 VAC 40-72-40. Program of care.

There shall be a program of care that:

1. Meets the resident population's physical, mental, emotional, and psychosocial needs;

2. Provides protection, guidance and supervision;

3. Promotes a sense of security and self-worth;

4. Promotes the resident's involvement with appropriate community resources; and

5. Meets the objectives of the service plan.

PART II.
ADMINISTRATION AND ADMINISTRATIVE SERVICES.

22 VAC 40-72-50. Licensee.

A. The licensee shall ensure compliance with all regulations for licensed assisted living facilities and terms of the license issued by the department; with relevant federal, state or local laws and other relevant regulations; and with the facility's own policies and procedures.

B. The licensee shall meet the following requirements:

1. The licensee shall give evidence of financial responsibility.

2. The licensee shall be of good character and reputation.

NOTE: Character and reputation investigation includes, but is not limited to, background checks as required by §§ 63.2-1702 and 63.2-1721 of the Code of Virginia.

3. The licensee shall meet the requirements specified in the Regulation for Background Checks for Assisted Living Facilities and Adult Day Care Centers (22 VAC 40-90).

4. The licensee shall protect the physical and mental well-being of residents.

5. The licensee shall exercise general supervision over the affairs of the licensed facility and establish policies concerning its operation in conformance with applicable law, these regulations, and the welfare of the residents.

6. The licensee shall develop and maintain an operating budget, including resident care, dietary, and physical plant maintenance allocations and expenditures. The budget shall be sufficient to ensure adequate funds in all aspects of operation.

7. The licensee shall ensure that the facility keep such records, make such reports and maintain such plans, schedules, and other information as required by this chapter for licensed assisted living facilities. The facility shall submit, or make available, to the department's representative, records, reports, plans, schedules, and other information necessary to establish compliance with this chapter and applicable law. Such records, reports, plans, schedules, and other information shall be maintained at the facility and may be inspected at any reasonable time by the department's representative.

8. The licensee shall meet the qualifications of and requirements for the administrator if he serves as the administrator of the facility.

C. An assisted living facility sponsored by a religious organization, a corporation or a voluntary association shall be controlled by a governing board of directors that shall fulfill the duties of the licensee.

D. Upon initial application for an assisted living facility license, any person applying to operate such a facility who has not previously owned or managed or does not currently own or manage a licensed assisted living facility shall be required to undergo training by the commissioner or his designated agents. Such training shall be required of those owners and currently employed administrators of an assisted living facility at the time of initial application for a license.

1. The commissioner may also approve training programs provided by other entities and allow owners or administrators to attend such approved training programs in lieu of training by the department.

2. The commissioner may also approve for licensure applicants who meet requisite experience criteria as established by the board.

3. The training programs shall focus on the health and safety regulations and resident rights as they pertain to assisted living facilities and shall be completed by the owner or administrator prior to the granting of an initial license.

4. The commissioner may, at his discretion, issue a license conditioned upon the owner or administrator's completion of the required training.

E. If there are plans for a facility to be voluntarily closed or sold, the licensee shall notify the licensing office of intent to close or sell the facility no less than 60 days prior to the closure or sale date. The following shall apply:

1. No less than 60 days prior to the planned closure or sale date, the licensee shall notify the residents, legal representatives, and designated contact persons of the intended closure or sale of the facility and the date for such, and the requirements of 22 VAC 40-72-420 shall apply.

2. If the facility is to be sold, at the time of notification of residents of such, the licensee shall explain to each resident, legal representative, and at least one designated contact person that unless provided otherwise by the new licensee, the resident has a choice as to whether to stay or to relocate and that if a resident chooses to stay, there must be a new agreement/acknowledgment between the resident and the new licensee that meets the specifications of 22 VAC 40-72-390.

3. The licensee shall provide updates regarding the closure or sale of the facility to the licensing office, as requested.

EXCEPTION: If plans are made at such time that 60-day notice is not possible, the licensee shall notify the licensing office, the residents, legal representatives, and designated contact persons as soon as the intent to close or sell the facility is known.

22 VAC 40-72-60. Disclosure.

A. The assisted living facility shall prepare and provide a statement to the prospective resident and his legal representative, if any, that discloses information about the facility. The statement shall be on a form developed by the department and shall:

1. Disclose information fully and accurately in plain language;

2. Be provided to the prospective resident and his legal representative at least five days in advance of the planned admission date, and prior to signing an admission agreement or contract;

3. Be provided to a resident or his legal representative upon request; and

4. Disclose the following information, which shall be kept current:

a. Name of the facility;

b. Name of the licensee;

c. Names of any other facilities for which the licensee has been issued a license by the Commonwealth of Virginia;

d. Ownership structure of the facility, i.e., individual, partnership, corporation, limited liability company, unincorporated association or public agency;

e. Owner of the property, if it is leased;

f. Name of management company that operates the facility, if other than the licensee;

g. Licensed capacity of the facility and description of the characteristics of the resident population;

h. Description of all accommodations, services, and care that the facility offers;

i. Fees charged for accommodations, services, and care, including clear information about what is included in the base fee and any fees for additional accommodations, services, and care;

j. Policy regarding increases in charges and length of time for advance notice of intent to increase charges;

k. Amount of an advance or deposit payment and refund policy for such payment;

l. Criteria for admission to the facility and any restrictions on admission;

m. Criteria for transfer to a different living area within the same facility, including transfer to another level of care within the same facility or complex;

n. Criteria for discharge, including the actions, circumstances, or conditions that would result or might result in the resident's discharge from the facility;

o. Requirements or rules regarding resident conduct and other restrictions and special conditions;

p. Range, categories, frequency, and number of activities provided for residents;

q. General number, functions, and qualifications of staff on each shift;

r. Indication of whether contractors are used to provide any essential services to residents and, if used, provide names of contractors upon request: and

s. Address of the website of the department, with a note that additional information about the facility may be obtained from the website, including type of license, special services, and compliance history that includes information after July 1, 2003.

B. If a prospective resident is admitted to the facility, written acknowledgement of the receipt of the disclosure by the resident or his legal representative shall be retained in his record.

EXCEPTION: If circumstances are such that resident admission to a facility prevents disclosure of the information at least five days in advance, then the information shall be

disclosed at the earliest possible time prior to signing an admission agreement or contract. The circumstances causing the delay shall be documented.

C. The information required in this section shall also be available to the general public.

22 VAC 40-72-70. Risk management.

The licensee or his designee shall develop, implement, monitor, and evaluate a risk management plan for the facility that addresses risk to residents, employees, volunteers and visitors. The plan shall be in writing and shall include procedures for identifying, monitoring, and preventing or minimizing risks associated with, but not limited to, injuries, errors in medication administration or documentation, dermal ulcers, infections, falls, wandering, aggression, suicide and suicide attempts, assaults, resident abuse, procedure errors, and environmental and physical hazards.

22 VAC 40-72-80. Quality improvement.

A. Each assisted living facility shall develop and implement an ongoing quality improvement program to evaluate objectively and systematically the quality of resident care and services, pursue opportunities to improve care and services, and resolve identified problems.

B. Each facility shall perform a comprehensive, integrated, self-assessment of the quality and appropriateness of care provided to meet the needs of residents, including services provided under contract or agreement. The administrator shall involve in the assessment direct care staff and any other employees as deemed appropriate. The self-assessment shall be performed at least quarterly and shall include, but not be limited to, an examination of the following:

1. Appropriateness of services provided to residents;

2. Results of resident care;

3. Degree of individual resident participation in decisions regarding the care and services provided to him;

4. Unacceptable or unexpected trends or occurrences;

5. Degree of satisfaction of residents and their families;

6. Appropriateness of complaint resolution;

7. Employee concerns;

8. Findings and recommendations from the health care oversight required by 22 VAC 40-72-480 and actions taken as a result;

9. Incident reports and other occurrences as required in 22 VAC 40-72-100; and

10. Findings of department inspections and actions taken to correct violations.

C. The facility shall use the findings of the self-assessment to improve the quality and appropriateness of care and services to residents. The facility shall develop and implement appropriate plans of action to:

1. Correct identified deficiencies and their causes;

2. Resolve systemic problems;

3. Revise policies and practices, as necessary; and

4. Improve overall care and services.

D. The facility shall document compliance with these requirements and the outcomes of the plans of action. Relevant dates and the signature of the administrator indicating review of the documentation shall be included. The documentation for at least the most recent three-year period shall be maintained at the facility.

22 VAC 40-72-90. Infection control program.

A. The assisted living facility shall establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to prevent the development and transmission of disease and infection.

B. The infection control program shall encompass the entire physical plant and grounds and all services.

C. The infection control program addressing the surveillance, prevention and control of infections shall include:

1. Establishing procedures to isolate the infecting organism;

2. Providing easy access to handwashing equipment for all employees and volunteers;

3. Training for and supervisory monitoring of all employees and volunteers in proper handwashing techniques, according to accepted professional standards, to prevent cross contamination;

4. Training for all employees and volunteers in appropriate implementation of standard precautions;

5. Prohibiting employees and volunteers with communicable diseases or infections from direct contact with residents or their food, if direct contact may transmit disease;

6. Monitoring employees' and volunteers' performance of infection control practices;

7. Handling, storing, processing and transporting linens, supplies and equipment in a manner that prevents the spread of infection;

8. Handling, storing, processing and transporting medical waste in accordance with applicable regulations;

9. Maintaining an effective pest control program; and

10. Providing employee and volunteer education regarding infection risk-reduction behavior.

D. The methods utilized for infection control shall be described in a written document that shall be available to all staff.

22 VAC 40-72-100. Incident and occurrence reports.

A. Each facility shall report to the licensing office by the next working day any major incident that has negatively affected or could threaten the life, health, safety or welfare of any resident.

B. Each facility shall report to the licensing office by the next working day the following occurrences:

1. Absence/elopement of a resident from the facility when the resident cannot be located or has left the premises and there is sufficient reason to question his whereabouts;

2. An outbreak of a contagious disease or condition among residents, or an outbreak of food poisoning among residents;

3. Significant physical damage to the facility, disruption of utilities services, call to the fire department or evacuation of the building or any rooms in the building due to a fire, natural disaster or other emergency;

4. An occurrence that requires the services of a law-enforcement agency.

C. The report required in subsections A and B of this section shall include (i) the name of the facility, (ii) the name(s) of the resident(s) involved in the incident or occurrence, (iii) the name of the person making the report, (iv) the date of the incident or occurrence, (iv) a description of the incident or occurrence, and (v) the actions taken in response to the incident or occurrence.

D. The facility shall submit a written report of each incident or occurrence specified in subsections A and B of this section to the licensing office within seven days after the incident or occurrence took place. The report shall be signed and dated by the administrator and include the following information:

1. Name and address of the facility;

2. Name of the resident(s) involved in the incident or occurrence;

3. Date and time of the incident or occurrence;

4. Name, title, and signature of the person making the report;

5. Date of completion of the report;

6. Type of incident or occurrence;

7. Description of the incident or occurrence, the circumstances under which it happened, and when applicable, extent of injury or damage;

8. Location of the incident or occurrence;

9. Actions taken in response to the incident or occurrence;

10. Outcome resolution of the incident or occurrence, and if applicable follow-up actions or care;

11. Name of employee in charge at the time of the incident or occurrence;

12. Names, telephone numbers and addresses of witnesses to the incident or occurrence, if any.

E. The facility shall submit amendments to the written report when circumstances require, such as when additional actions are taken or there is resolution of the incident or occurrence after submission of the report or significant new information becomes available.

F. A copy of the written report of each incident or occurrence shall be maintained by the facility for at least two years.

22 VAC 40-72-110. Provision of data.

As requested by the department, but not more than twice annually, the facility shall provide the department with demographic and clinical data on its residents. Such data may include, but shall not be limited to, the average age of persons in care, number of private pay persons and number of public pay persons, and the number of persons meeting certain major medical and psychiatric diagnostic categories.

22 VAC 40-72-120. Conservator or guardian.

The facility licensee/operator, facility administrator, relatives of the licensee/operator or administrator, or facility employees shall not act as, seek to become, or become the conservator or guardian of any resident unless specifically so appointed by a court of competent jurisdiction pursuant to Article 1 (§ 37.2-1000 et seq.) of Chapter 10 of Title 37.2 of the Code of Virginia.

22 VAC 40-72-130. Management and control of resident funds.

Pursuant to § 63.2-1808 A 3 of the Code of Virginia, unless a conservator or guardian of a resident has been appointed (see 22 VAC 40-72-120), the resident shall be free to manage his personal finances and funds; provided, however, that the facility may assist the resident in such management in accordance with 22 VAC 40-72-140 and 22 VAC 40-72-150.

22 VAC 40-72-140. Resident accounts.

The facility shall provide to each resident a monthly statement or itemized receipt of the resident's account and shall place a copy also in the resident's record. The monthly statement or itemized receipt shall itemize any charges made and any payments received during the previous 30 days or during the previous calendar month and shall show the balance due or any credits for overpayment on the resident's account.

22 VAC 40-72-150. Safeguarding residents' funds.

A. If the resident delegates the management of personal funds to the facility, the following standards apply:

1. Residents' funds shall be held separately from any other moneys of the facility. Residents' funds shall not be borrowed, used as assets of the facility, or used for purposes of personal interest by the licensee/operator, administrator, or facility employee.

2. If the facility's accumulated residents' funds are maintained in a single interest-bearing account, each resident shall receive interest proportionate to his average monthly account balance. The facility may deduct a reasonable cost for administration of the account.

3. If any personal funds are held by the facility for safekeeping on behalf of the resident, a written accounting of money received and disbursed, showing a current balance, shall be maintained. Residents' funds and the accounting of the funds shall be made available to the resident or the legal representative or both upon request.

B. No facility administrator or employee shall act as either attorney-in-fact or trustee unless the resident has no other preferred designee and the resident himself expressly requests such service by or through facility personnel. Any facility administrator or employee so named shall be accountable at all times in the proper discharge of such fiduciary responsibility as provided under Virginia law, shall provide a quarterly accounting to the resident, and, upon termination of the power of attorney or trust for any reason, shall return all funds and assets, with full accounting, to the resident or to his legal representative or to another responsible party expressly designated by the resident. See also 22 VAC 40-72-120 regarding conservators or guardians appointed by a court of competent jurisdiction.

PART III.
PERSONNEL.

22 VAC 40-72-160. Personnel policies and procedures.

A. The facility shall develop and keep current a written job description for each position in the facility. The job description shall include:

1. Job title;

2. Duties and responsibilities required of the position;

3. Job title of the immediate supervisor; and

4. Minimum knowledge, skills and abilities, experience, or educational or professional qualifications required for entry level.

B. Each employee shall be given a copy of his current job description and of the facility's current organizational chart.

C. The facility shall develop and implement procedures for verifying current professional licensing, registration, or certification and training of employees.

D. The facility shall develop and implement procedures for annually evaluating employee performance.

E. Individual training needs and plans shall be a part of the performance evaluation.

22 VAC 40-72-170. Employee general qualifications.

A. All employees shall:

1. Be of good character and reputation;

2. Be physically and mentally capable of carrying out assigned responsibilities;

3. Be considerate and respectful of the rights, dignity and sensitivities of aged and disabled persons;

4. Be clean and well-groomed; and

5. Meet the requirements specified in the Regulation for Background Checks for Assisted Living Facilities and Adult Day Care Centers (22 VAC 40-90).

B. All employees shall be able to communicate effectively in English both orally and in writing as applicable to their job responsibilities.

22 VAC 40-72-180. Employee orientation.

A. The training and orientation required in subsections B, C and D of this section shall occur within the first seven days of employment and unless under the sight supervision of a trained direct care staff person or administrator, prior to assuming job responsibilities.

B. All employees shall be trained in:

1. The purpose of the facility;

2. The services provided;

3. The daily routines;

4. The facility's policies and procedures;

5. Specific duties and responsibilities of their positions; and

6. Required compliance with regulations for assisted living facilities as it relates to their duties and responsibilities.

C. All employees shall be trained in the relevant laws, regulations, and the facility's policies and procedures sufficiently to implement the following:

1. Emergency and disaster plans for the facility;

2. Techniques of complying with emergency and disaster plans including evacuating residents when applicable;

3. Procedures for the handling of resident emergencies;

4. Use of the first aid kit and knowledge of its location;

5. Handwashing techniques, standard precautions, infection risk-reduction behavior, and other infection control measures specified in 22 VAC 40-72-90;

6. Confidential treatment of personal information;

7. Observance of the rights and responsibilities of residents;

8. Requirements and procedures for detecting and reporting suspected abuse, neglect, or exploitation of residents and for mandated reporters, the consequences for failing to make a required report. (NOTE: Section 63.2-1606 of the Code of Virginia specifies requirements and procedures for reporting and consequences for not reporting.) (NOTE: See 22 VAC 40-72-10 for a definition of mandated reporter);

9. Procedures for reporting and documenting incidents and other occurrences as required in 22 VAC 40-72-100;

10. Methods of easing adjustment difficulties for common adjustment problems that may occur when a resident moves from one residential environment to another; and

11. For direct care staff, the needs, preferences and routines of the residents for whom they will provide care.

22 VAC 40-72-190. Administrator provisions and responsibilities.

A. Each facility shall have an administrator of record. This does not prohibit the administrator from serving as the administrator of record for more than one facility.

B. The licensee shall notify the licensing office in writing within 10 working days of a change in a facility's administrator including, but not limited to, the resignation of an administrator, appointment of an acting administrator, and appointment of a new administrator.

C. When an administrator terminates employment, the licensee shall hire a new administrator within 90 days from the date of termination. Unless a new administrator is employed immediately, a qualified acting administrator shall be appointed when the administrator terminates employment.

D. It shall be the duty of the administrator to oversee the day-to-day operation of the facility. This shall include, but shall not be limited to, responsibility for:

1. Developing and implementing all policies and services as required by this chapter;

2. Ensuring employees and volunteers comply with residents' rights;

3. Maintaining buildings and grounds;

4. Recruiting, hiring, training, and supervising employees; and

5. Ensuring the development, implementation, and monitoring of an individualized service plan for each resident, except that a plan is not required for a resident with independent living status.

E. Either the administrator or a designated assistant who meets the qualifications of the administrator shall be awake and on duty on the premises at least 40 hours per week with no fewer than 24 of those hours being during the day shift on week days.

EXCEPTIONS:

1. 22 VAC 40-72-220 allows a shared administrator for smaller facilities.

2. In facilities licensed for both residential and assisted living care, if the designated assistant is performing as an administrator for fewer than 15 of the 40 hours or for fewer than four weeks due to the vacation or illness of the administrator, the requirements of 22 VAC 40-72-200 D shall be acceptable.

F. The facility shall maintain a written schedule of the on-site presence of the administrator and, if applicable, the designated assistant or, as provided for in 22 VAC 40-72-220 and 22 VAC 40-72-230, the manager.

1. Any changes shall be noted on the schedule.

2. The facility shall maintain a copy of the schedule for two years.

22 VAC 40-72-200. Administrator qualifications.

A. The administrator shall be at least 21 years of age.

B. The administrator shall be able to read and write, and understand this chapter.

C. The administrator shall be able to perform the duties and carry out the responsibilities required by this chapter.

D. For facilities licensed for residential living care only, the administrator shall:

1. Be a high school graduate or shall have a General Education Development (GED) Certificate;

2. (i) Have successfully completed at least 30 credit hours of postsecondary education from a college or university accredited by an association recognized by the U.S. Secretary of Education or (ii) have successfully completed a department-approved course specific to the administration of an assisted living facility; and

3. Have at least one year of administrative or supervisory experience in caring for adults in a group care facility.

EXCEPTION:

1. A licensed nursing home administrator who meets the qualifications under § 54.1-3103 of the Code of Virginia;

2. A licensed nurse who meets the experience requirements in subdivision 4 of this subsection;

3. An administrator of an assisted living facility employed prior to (insert the effective date of these standards) who met the requirements in effect when employed.

E. For facilities licensed for both residential and assisted living care, the administrator shall:

1. Be a graduate of a four-year college or university accredited by an association recognized by the U.S. Secretary of Education; or

2. Have successfully completed at least 60 credit hours of courses in human services or group care administration, from a college or university accredited by an association recognized by the U.S. Secretary of Education; or

EXCEPTION: Ten or fewer of the 60 credit hours may be in business courses.

3. Have successfully completed at least 30 credit hours of courses in human services or group care administration from a college or university accredited by an association recognized by the U.S. Secretary of Education and have successfully completed a department-approved course specific to the administration of an assisted living facility; and

4. Have completed at least one year of administrative or supervisory experience in caring for adults in a group care facility.

EXCEPTIONS:

1. A licensed nursing home administrator who meets the qualifications under § 54.1-3103 of the Code of Virginia;

2. A licensed nurse who meets the experience requirements in subdivision 4 of this subsection;

3. An administrator of an assisted living facility employed prior to (insert the effective date of these standards), who met the requirements in effect when employed and who has been continuously employed as an assisted living facility administrator.

EXCEPTION: An administrator employed prior to February 1, 1996, who met the exception to the standards effective February 1, 1996, shall successfully complete within one year a department-approved course specific to the administration of an assisted living facility.

F. The administrator shall not be a resident of the facility.

22 VAC 40-72-210. Administrator training.

A. The administrator shall attend at least 20 hours of training related to management or operation of a residential facility for adults or relevant to the population in care within 12 months from the date of employment and annually thereafter from that date. When adults with mental impairments reside in the facility, at least five of the required 20 hours of training shall focus on topics related to residents' mental impairments. Documentation of attendance shall be retained at the facility and shall include title of course, name of the institution that provided the training, date and number of hours.

B. Any administrator who has not previously undergone the training specified in 22 VAC 40-72-50 D shall be required to complete that training within two months of employment as administrator of the facility. The training may be counted toward the annual training requirement for the first year.

EXCEPTION: Administrators employed prior to (insert the effective date of these standards) are not required to complete this training.

C. Administrators shall be required to complete refresher training when standards are revised, unless the department determines that such training is not necessary.

D. If medication is administered to residents by medication aides as allowed in 22 VAC 40-72-660 1 b and c, the administrator shall successfully complete a medication training program approved by the Board of Nursing. The training shall be completed within four months of employment as an administrator and may be counted toward the annual training requirement for the first year. The following exceptions apply:

1. The administrator is licensed by the Commonwealth of Virginia to administer medications; or

2. Medication aides are supervised by an individual employed full time at the facility who is licensed by the Commonwealth of Virginia to administer medications.

22 VAC 40-72-220. Shared administrator for smaller facilities.

The administrator may be awake and on duty on the premises for fewer than the minimum 40 hours per week, without a designated assistant, under the following conditions:

1. In facilities licensed for 10 or fewer residents:

a. The administrator shall be awake and on duty on the premises of each facility for at least 10 hours a week; and

b. The administrator shall serve no more than four facilities.

2. In facilities licensed for 11-19 residents:

a. The administrator shall be awake and on duty on the premises of each facility for at least 20 hours a week; and

b. The administrator shall serve no more than two facilities.

3. In facilities licensed for 10 or fewer residents as specified in subdivision 1 of this section and in facilities licensed for 11-19 residents as specified in subdivision 2 of this section:

a. The administrator shall serve as a full time administrator, i.e., shall be awake and on duty on the premises of more than one assisted living facility for at least 40 hours a week;

b. Each of the facilities served shall be within a 30-minute average travel time of the other facilities;

c. When not present at a facility, the administrator shall be on call to that facility during the hours he is working as an administrator and shall maintain such accessibility through suitable communication devices;

d. A designated assistant may act in place of the administrator during the required minimum of 40 hours only if the administrator is ill or on vacation and for a period of time that shall not exceed four weeks. The designated assistant shall meet the qualifications of the administrator;

e. There shall be a designated person who shall serve as manager and who shall be awake and on duty on the premises of each facility for the remaining part of the 40 required hours when the administrator is not present at the facility and who shall be supervised by the administrator. The manager shall meet the following minimum qualifications and requirements:

(1) The manager shall be at least 21 years of age.

(2) The manager shall be able to read and write, and understand this chapter.

(3) The manager shall be able to perform the duties and to carry out the responsibilities of his position.

(4) The manager shall:

(a) Be a high school graduate or shall have a General Education Development (GED) Certificate; and

(b) Have successfully completed at least 30 credit hours of postsecondary education from a college or university accredited by an association recognized by the U.S. Secretary of Education; or

(c) Have successfully completed a department-approved course specific to the administration of an assisted living facility; and

(d) Have at least one year of administrative or supervisory experience in caring for adults in a group care facility.

(5) The manager shall not be a resident of the facility;

f. The manager shall complete the training specified in 22 VAC 40-72-50 D within two months of employment as manager. The training may be counted toward the annual training requirement for the first year;

g. Managers shall be required to complete refresher training when standards are revised, unless the department determines that such training is not necessary;

h. The manager shall attend at least 16 hours of training related to management or operation of a residential facility for adults or relevant to the population in care within each 12-month period. When adults with mental impairments reside in the facility, at least four of the required 16 hours of training shall focus on topics related to residents' mental impairments. Documentation of attendance shall be retained at the facility and shall include title of course, name of the institution that provided the training, date and number of hours;

i. There shall be a written management plan for each facility that includes written policies and procedures that describe how the administrator shall oversee the care and supervision of the residents and the day-to-day operation of the facility;

j. Each facility shall maintain a schedule that specifies for both the administrator and the manager the days and times each shall be awake and on duty on the premises. Any changes shall be noted on the schedule, which shall be retained for two years;

k. The minimum of 40 hours required for the administrator or manager to be awake and on duty on the premises of a facility shall include at least 24 hours being during the day shift on week days.

4. This section shall not apply to an administrator who serves both an assisted living facility and a nursing home, as provided for in 22 VAC 40-72-230.

22 VAC 40-72-230. Administrator of both assisted living facility and nursing home.

A. Any person meeting the qualifications for a licensed nursing home administrator pursuant to § 54.1-3103 of the Code of Virginia may serve as the administrator of both an assisted living facility and a licensed nursing home, provided the assisted living facility and licensed nursing home are part of the same building and the requirements of subsections B and C of this section are met.

B. Whenever an assisted living facility and a licensed nursing home have a single administrator, there shall be a written management plan that addresses the care and supervision of the assisted living facility residents. The management plan shall include, but not be limited to, the following:

1. Written policies and procedures that describe how the administrator will oversee the care and supervision of the residents and the day-to-day operation of the facility;

2. If the administrator does not provide the direct management of the assisted living facility or only provides a portion thereof, the plan shall specify a designated individual who shall serve as manager and who shall be supervised by the administrator.

C. The manager referred to in subdivision B 2 of this section shall be on-site and meet the following minimum qualifications and requirements:

1. The manager shall be at least 21 years of age.

2. The manager shall be able to read and write, and understand this chapter.

3. The manager shall be able to perform the duties and carry out the responsibilities of his position.

4. The manager shall:

a. Be a high school graduate or shall have a General Education Development (GED) Certificate;

b. (i) Have successfully completed at least 30 credit hours of postsecondary education from a college or university accredited by an association recognized by the U.S. Secretary of Education or (ii) have successfully completed a department-approved course specific to the administration of an assisted living facility; and

c. Have at least one year of administrative or supervisory experience in caring for adults in a group care facility.

EXCEPTION: A manager employed prior to (insert the effective date of these standards) who met the requirements in effect when employed and who has been continuously employed as a manager.

5. The manager shall not be a resident of the facility.

6. The manager shall complete the training specified in 22 VAC 40-72-50 D within two months of employment as manager. The training may be counted toward the annual training requirement for the first year.

EXCEPTION: Managers employed prior to (insert the effective date of these standards) are not required to complete this training.

7. Managers shall be required to complete refresher training when standards are revised, unless the department determines that such training is not necessary.

8. The manager shall attend at least 16 hours of training related to management or operation of a residential facility for adults or relevant to the population in care within each 12-month period. When adults with mental impairments reside in the facility, at least four of the required 16 hours of training shall focus on residents who are mentally impaired. Documentation of attendance shall be retained at the facility and shall include title of course, name of the institution that provided the training, date and number of hours.

22 VAC 40-72-240. Designated staff person in charge.

A. When the administrator or designated assistant who meets the qualifications of the administrator or the manager who meets the qualifications specified in 22 VAC 40-72-220 or 22 VAC 40-72-230 is not awake and on duty on the premises, there shall be a designated direct care staff member in

charge, who has specific duties and responsibilities as determined by the administrator.

B. Prior to being placed in charge, the staff member shall be informed of and receive training on his duties and responsibilities, and be provided written documentation of such duties and responsibilities.

C. The staff member shall be awake and on duty on the premises while in charge.

D. The staff member in charge shall be capable of protecting the physical and mental well-being of the residents.

E. The administrator shall ensure that the staff member in charge is prepared to carry out his duties and responsibilities and respond appropriately in case of an emergency.

F. The staff member in charge shall not be a resident of the facility.

22 VAC 40-72-250. Direct care staff qualifications.

A. Direct care staff shall be at least 18 years of age unless certified in Virginia as a nurse aide.

B. Direct care staff who are responsible for caring for residents with special health care needs shall only provide services within the scope of their practice and training.

C. In facilities licensed for both residential and assisted living care, all direct care staff who care for residents who meet the criteria for assisted living care shall have satisfactorily completed, or within 30 days of employment shall enroll in and successfully complete within two months of employment, a training program consistent with department requirements, except as noted in subsections D and E of this section. Department requirements shall be met in one of the following five ways:

1. Registration in Virginia as a certified nurse aide.

2. Graduation from a Virginia Board of Nursing-approved educational curriculum from a Virginia Board of Nursing accredited institution for nursing assistant, geriatric assistant or home health aide.

3. Graduation from a personal care aide training program approved by the Virginia Department of Medical Assistance Services.

4. Graduation from a department-approved educational curriculum for nursing assistant, geriatric assistant or home health aide. The curriculum is provided by a hospital, nursing facility, or educational institution not approved by the Virginia Board of Nursing, e.g., out-of-state curriculum. To obtain department approval:

a. The facility shall provide to the department's representative an outline of the course content, dates and hours of instruction received, the name of the institution that provided the training, and other pertinent information.

b. The department will make a determination based on the above information and provide written confirmation to the facility when the course meets department requirements.

5. Successful completion of the department-approved 40-hour direct care staff training provided by a licensed health care professional acting within the scope of the requirements of his profession.

D. Licensed health care professionals acting within the scope of the requirements of their profession are not required to complete the training in subsection C of this section.

E. Direct care staff of the facility employed prior to February 1, 1996, shall not be required to complete the training in subsection C of this section if they (i) have been continuously employed as direct care staff in the facility since then and (ii) have demonstrated competency on a skills checklist dated and signed no later than February 1, 1997, by a licensed health care professional acting within the scope of the requirements of his profession.

F. In respect to the requirements of subsection C of this section, the facility shall obtain a copy of the certificate issued to the certified nurse aide, the nursing assistant, geriatric assistant or home health aide, personal care aide, or documentation indicating the department-approved 40-hour direct care staff training has been successfully completed. The copy of the certificate or the appropriate documentation shall be retained in the staff member's file.

G. The administrator shall develop and implement a written plan for supervision of direct care staff who have not yet successfully completed the training program as allowed for in subsection C of this section.

22 VAC 40-72-260. Direct care staff training.

A. In facilities licensed for residential living care only, commencing no later than 60 days after employment, all direct care staff shall attend at least eight hours of training annually (in addition to required first aid and CPR training).

1. The training shall be relevant to the population in care and shall be provided through in-service training programs or institutes, workshops, classes, or conferences.

2. When adults with mental impairments reside in the facility, at least two of the required eight hours of training shall focus on the resident who is mentally impaired.

3. Documentation of the type of training received, the entity that provided the training, number of hours of training, and dates of the training shall be kept by the facility in a manner that allows for identification by individual employee and is considered part of the staff member's record.

B. In facilities licensed for both residential and assisted living care, commencing no later than 60 days after employment, all direct care staff shall attend at least 16 hours of training annually (in addition to first aid and CPR training).

1. The training shall be relevant to the population in care and shall be provided through in-service training programs or institutes, workshops, classes, or conferences.

2. When adults with mental impairments reside in the facility, at least four of the required 16 hours of training shall focus on the resident who is mentally impaired.

3. Documentation of the type of training received, the entity that provided the training, number of hours of training, and dates of the training shall be kept by the facility in a manner that allows for identification by individual employee and is considered part of the employee's record.

EXCEPTION: Direct care staff who are licensed health care professionals or certified nurse aides shall attend at least 12 hours of annual training.

22 VAC 40-72-270. Employee duties performed by residents.

A. Any resident who performs any employee duties shall meet the personnel and health requirements for that position.

B. There shall be a written agreement between the facility and any resident who performs employee duties.

1. The agreement shall specify duties, hours of work, and compensation.

2. The agreement shall not be a condition for admission or continued residence.

3. The resident shall enter into such an agreement voluntarily.

22 VAC 40-72-280. Volunteers.

A. Any volunteers used shall:

1. Have qualifications appropriate to the services they render; and

2. Be subject to laws and regulations governing confidential treatment of personal information.

B. No volunteer shall be permitted to serve in an assisted living facility without the permission of or unless under the supervision of a person who has received a criminal record clearance pursuant to § 63.2-1720 of the Code of Virginia.

C. The facility shall maintain the following written documentation on volunteers:

1. Name.

2. Address.

3. Telephone number.

4. Emergency contact information.

D. Duties and responsibilities of all volunteers shall be clearly differentiated from those of persons regularly filling employee positions.

E. At least one employee shall be assigned responsibility for overall selection, supervision and orientation of volunteers.

F. Prior to beginning volunteer service, all volunteers shall attend an orientation including information on their duties and responsibilities, resident rights, confidentiality, emergency procedures, infection control, the name of their supervisor, and reporting requirements.

G. All volunteers shall be under the direct supervision of a designated employee when residents are present.

22 VAC 40-72-290. Employee records and health requirements.

A. A record shall be established for each employee. It shall not be destroyed until at least two years after employment is terminated.

B. All employee records shall be retained at the facility, treated confidentially, kept in a locked area, and made available for inspection by the department's representative upon request.

EXCEPTION: Emergency contact information required by subdivision C 14 of this section shall also be kept in an easily accessible place.

C. Personal and social data to be maintained on employees and included in the employee record are as follows:

1. Name;

2. Birthdate;

3. Current address and telephone number;

4. Social security number;

5. Position title, job description and date employed;

6. Verification that the employee has received a copy of his job description and the organizational chart;

7. Most recent previous employment;

8. For persons employed after November 9, 1975, copies of at least two references or notations of verbal references, obtained prior to employment, reflecting the date of the reference, the source and the content;

9. For persons employed after July 1, 1992, an original criminal record report and a sworn disclosure statement;

10. Previous experience or training or both;

11. Verification of current professional license, certification, registration, or completion of a required approved training course;

12. Annual employee performance evaluations;

13. Any disciplinary action taken;

14. Name and telephone number of person to contact in an emergency;

15. Documentation of formal training received following employment, including orientation, in-services and workshops; and

16. Date and reason for termination of employment, when applicable.

D. Health information required by these standards shall be maintained at the facility and included in the employee record for the administrator and each employee, and also shall be maintained at the facility for each household member who comes in contact with residents.

1. Initial tuberculosis examination and report.

a. Each employee at the time of hire and each household member prior to coming in contact with residents shall submit the results of a risk assessment, documenting the absence of tuberculosis in a communicable form as evidenced by the completion of the current screening form published by the Virginia Department of Health or a form consistent with it. The risk assessment shall be no older than 30 days.

b. An evaluation shall not be required for an employee who (i) has separated from employment with a facility licensed or certified by the Commonwealth of Virginia, (ii) has a break in service of six months or less, and (iii) submits a copy of the original statement of tuberculosis screening to his new employer.

2. Subsequent tuberculosis evaluations and reports.

a. Any employee or household member required to be evaluated who comes in contact with a known case of infectious tuberculosis shall be screened as determined appropriate based on consultation with the local health department.

b. Any employee or household member required to be evaluated who develops chronic respiratory symptoms of three weeks duration shall be evaluated immediately for the presence of infectious tuberculosis.

c. Each employee or household member required to be evaluated shall annually submit the results of a risk assessment, documenting that the individual is free of tuberculosis in a communicable form as evidenced by the completion the current screening form published by the Virginia Department of Health or a form consistent with it.

3. Any individual suspected to have infectious tuberculosis shall not be allowed to return to work or have any contact with the residents and personnel of the facility until a physician has determined that the individual is free of infectious tuberculosis.

4. The facility shall report any active case of tuberculosis developed by an employee or household member required to be evaluated to the local health department.

E. At the request of the administrator of the facility or the department, a report of examination by a licensed physician shall be obtained when there are indications that the safety of residents in care may be jeopardized by the physical or mental health of a specific individual.

F. Any individual who, upon examination or as a result of tests, shows indication of a physical or mental condition that may jeopardize the safety of residents in care or that would prevent performance of duties:

1. Shall be removed immediately from contact with residents; and

2. Shall not be allowed contact with residents until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement from the physician.

22 VAC 40-72-300. First aid and CPR certification.

A. There shall be at least one employee on the premises at all times who has current certification in first aid from the American Red Cross, American Heart Association, National Safety Council, or who has current first aid certification issued within the past three years by a community college, a hospital, a volunteer rescue squad, a fire department, or other designated program approved by the department, unless the facility has an on-duty registered nurse or licensed practical nurse. The certification must either be in Adult First Aid or include Adult First Aid.

B. There shall be at least one employee on the premises at all times who has current certification in cardiopulmonary resuscitation (CPR) from the American Red Cross, American Heart Association, National Safety Council, or who has current CPR certification issued within the past two years by a community college, a hospital, a volunteer rescue squad, a fire department, or other designated program approved by the department. The certification must either be in Adult CPR or include Adult CPR.

C. Each direct care staff member shall receive certification in first aid from an organization listed in subsection A of this section within 60 days of employment and maintain current certification in first aid as specified in subsection A of this section.

D. In facilities licensed for over 100 residents, at least one additional employee who meets the requirements of subsection B of this section shall be available for every 100 residents, or portion thereof. More employees who meet the requirements subsection B of this section shall be available if necessary to assure quick access to residents in the event of the need for CPR.

E. A listing of all employees who have current certification in first aid or CPR, in conformance with subsections A, B, C, and D of this section shall be posted in the facility so that the information is readily available to all employees at all times. The listing must indicate by employee whether the certification is in first aid or CPR or both and must be kept up-to-date.

F. An employee with current certification in first aid and CPR shall be present during facility-sponsored activities off the facility premises.

G. An employee with current certification in first aid and CPR shall be present when an employee transports a resident.

22 VAC 40-72-310. Direct care staff training when aggressive or restrained residents are in care.

The following training is required for staff in assisted living facilities that accept, or have in care, residents who are or who may be aggressive or restrained:

1. Aggressive residents.

a. Direct care staff shall be trained in methods of dealing with residents who have a history of aggressive behavior or of dangerously agitated states prior to being involved in the care of such residents.

b. This training shall include, at a minimum, information, demonstration, and practical experience in self-protection and in the prevention and de-escalation of aggressive behavior.

2. Restrained residents.

a. Prior to being involved in the care of residents in restraints, direct care staff shall be appropriately trained in caring for the health needs of such residents.

b. This training shall include, at a minimum, information, demonstration and experience in:

(1) The proper techniques for applying and monitoring restraints;

(2) Skin care appropriate to prevent redness, breakdown, and decubiti;

(3) Active and active assisted range of motion to prevent contractures;

(4) Assessment of blood circulation to prevent obstruction of blood flow and promote adequate blood circulation to all extremities;

(5) Turning and positioning to prevent skin breakdown and keep the lungs clear;

(6) Provision of sufficient bed clothing and covering to maintain a normal body temperature; and

(7) Provision of additional attention to meet the physical, mental, emotional, and social needs of the restrained resident.

3. The training described in subdivisions 1 and 2 of this section shall meet the following criteria:

a. Training shall be provided by a qualified health professional.

b. A written description of the content of this training, a notation of the person/agency/organization or institution providing the training and the names of direct care staff receiving the training shall be maintained by the facility except that, if the training is provided by the department, only a listing of direct care staff trained and the date of training are required.

4. Refresher training for all direct care staff shall be provided at least annually or more often as needed.

a. The refresher training shall encompass the techniques described in subdivision 1 or 2 of this section, or both.

b. A record of the refresher training and a description of the content of the training shall be maintained by the facility.

PART IV.
STAFFING AND SUPERVISION.

22 VAC 40-72-320. Staffing.

A. The assisted living facility shall have employees adequate in knowledge, skills, and abilities and sufficient in numbers to provide services to attain and maintain the physical, mental and psychosocial well-being of each resident as determined by resident assessments and individualized service plans, and to assure compliance with this chapter.

B. The assisted living facility shall maintain a written plan that specifies the number and type of direct care staff required to meet the day-to-day, routine direct care needs and any identified special needs for the residents in care. This plan will not be fee-based but shall be directly related to actual resident acuity levels and individualized care needs. The direct care staffing plan shall:

1. Meet all applicable minimum requirements as established in this chapter;

2. Comply with any additional applicable state, federal, local law or regulation;

3. Identify and utilize a system to address fluctuations in actual resident acuity levels and direct care requirements that might necessitate increased staffing levels above the minimums specified in the plan;

4. Factor in other facility responsibilities such as admissions, transfers, discharges, laundry, meal preparation, housekeeping and maintenance, administrative and support tasks, structured/scheduled activities programs, medication administration and treatments that may be expected of direct care staff in addition to direct care services;

5. Take into consideration the size and physical layout of the building;

6. Include general number, working job titles, and qualifications of staff on each shift; and

7. Identify the method that will be used to document actual staffing on a daily basis. In facilities with multiple floors, wings or units, this method must document dedicated staff for each operating unit and designate those who provide services across multiple units.

C. There shall be an adequate number of employees on the premises at all times to implement the approved emergency evacuation plan.

D. There shall be at least one direct care staff member awake and on duty at all times in each building when at least one resident is present.

E. Written work schedules shall be maintained and shall indicate the names and job classifications of all employees working each shift. Schedules shall indicate absences and substitutions. Schedules shall be retained for at least two years.

22 VAC 40-72-330. Communication among direct care staff.

A method of written communication shall be utilized as a means of keeping direct care staff on all shifts informed of significant happenings or problems experienced by residents, including complaints, incidents or injuries related to physical or mental conditions. A record shall be kept of the written communication for at least the past two years.

PART V.
ADMISSION, RETENTION AND DISCHARGE OF RESIDENTS.

22 VAC 40-72-340. Admission and retention of residents.

A. No resident shall be admitted or retained:

1. For whom the facility cannot provide or secure appropriate care;

2. Who requires a level of care or service or type of service for which the facility is not licensed or which the facility does not provide; or

3. If the facility does not have employees appropriate in numbers and with appropriate skill to provide the care and services needed by the resident.

B. Assisted living facilities shall not admit an individual before a determination has been made that the facility can meet the needs of the resident. The facility shall make the determination based upon the following information at a minimum:

1. The completed UAI;

2. The physical examination report;

3. A documented interview between the administrator or a designee responsible for admission and retention decisions, the resident and his legal representative, if any;

NOTE: In some cases, medical conditions may create special circumstances that make it necessary to hold the interview on the date of admission.

4. An assessment of psychological, behavioral, and emotional functioning, conducted by a qualified mental health professional, if recommended by the UAI assessor, a health care professional, or the administrator or designee responsible for the admission and retention decision. This includes meeting the requirements of 22 VAC 40-72-360.

C. An assisted living facility shall only admit or retain residents as permitted by its use group classification and certificate of occupancy. The ambulatory/nonambulatory status of an individual is based upon:

1. Information contained in the physical examination report; and

2. Information contained in the most recent UAI.

D. Upon receiving the UAI prior to admission of a resident, the assisted living facility administrator shall provide written assurance to the resident that the facility has the appropriate license to meet his care needs at the time of admission. Copies of the written assurance shall be given to the legal representative and case manager, if any, and a copy signed by the resident or his legal representative shall be kept in the resident's record.

E. All residents shall be 18 years of age or older.

F. No person shall be admitted without his consent and agreement, or that of his legal representative with demonstrated legal authority to give such consent on his behalf.

G. Assisted living facilities shall not admit or retain individuals with any of the following conditions or care needs:

1. Ventilator dependency;

2. Dermal ulcers III and IV except those stage III ulcers that are determined by an independent physician to be healing, as permitted in subsection H of this section;

3. Intravenous therapy or injections directly into the vein, except for intermittent intravenous therapy managed by a health care professional licensed in Virginia as permitted in subsection I or J of this section;

4. Airborne infectious disease in a communicable state that requires isolation of the individual or requires special precautions by the caretaker to prevent transmission of the disease, including diseases such as tuberculosis and excluding infections such as the common cold;

5. Psychotropic medications without appropriate diagnosis and treatment plans;

6. Nasogastric tubes;

7. Gastric tubes except when the individual is capable of independently feeding himself and caring for the tube or as permitted in subsection J of this section;

8. Individuals presenting an imminent physical threat or danger to self or others;

9. Individuals requiring continuous licensed nursing care;

10. Individuals whose physician certifies that placement is no longer appropriate;

11. Unless the individual's independent physician determines otherwise, individuals who require maximum physical assistance as documented by the UAI and meet Medicaid nursing facility level of care criteria as defined in the State Plan for Medical Assistance (12 VAC 30-10); or

12. Individuals whose physical or mental health care needs cannot be met in the specific assisted living facility as determined by the facility.

H. When a resident has a stage III dermal ulcer that has been determined by an independent physician to be healing, periodic observation and any necessary dressing changes shall be performed by a licensed health care professional under a physician's treatment plan.

I. Intermittent intravenous therapy may be provided to a resident for a limited period of time on a daily or periodic basis by a licensed health care professional under a physician's treatment plan. When a course of treatment is expected to be ongoing and extends beyond a two-week period, evaluation is required at two-week intervals by the licensed health care professional.

J. At the request of the resident in an assisted living facility and when his independent physician determines that it is appropriate, (i) care for the conditions or care needs specified in subdivisions G 3 and 7 of this section may be provided to

the resident by a physician licensed in Virginia, a nurse licensed in Virginia or a nurse holding a multistate licensure privilege under a physician's treatment plan, or a home care organization licensed in Virginia or (ii) care for the conditions or care needs specified in subdivision G 7 of this section may also be provided to the resident by unlicensed direct care facility staff if the care is delivered in accordance with the regulations of the Board of Nursing for delegation by a registered nurse, 18 VAC 90-20-420 through 18 VAC 90-20-460 and subsection K of this section.

NOTE: This standard does not apply to recipients of auxiliary grants.

K. When care for gastric tubes is provided to the resident by unlicensed direct care facility staff as allowed in clause (ii) of subsection J of this section, the following criteria shall be met:

1. The care shall be provided by a direct care staff member who has successfully completed general and resident-specific training requirements and competencies in tube care from the delegating registered nurse, which has been documented by the nurse, and includes the following:

a. Type and amount of feeding and method of administration;

b. Necessary equipment and supplies;

c. Methods for determining the resident's tube remains properly placed and patent;

d. Acceptable parameters for residual contents – when to administer feedings and when to hold;

e. When, how often and with what amounts of water direct care staff are to flush tube;

f. How tube is to be clamped and secured;

g. How site is to be cleansed and dressed including frequency;

h. What information is to be documented; and

i. What information is to be reported and how soon (e.g., tube out or displaced, drainage around tube, signs of infection, nausea, vomiting, diarrhea, etc.).

2. Whenever administering a tube feeding, the direct care staff member is responsible for all of the following:

a. Confirming physician order for type and amount of feeding and method of administration;

b. Confirming written instructions from RN;

c. Gathering necessary equipment and supplies;

d. Identifying resident;

e. Explaining procedure to resident;

f. Confirming that feeding tube is in place and patent;

g. Elevating head of bed or positioning resident comfortably in chair;

h. Washing hands;

i. Preparing feeding according to physician order and written instructions from RN;

j. Checking residual to confirm amount falls within parameters specified by RN;

k. Administering feeding by gravity flow or other method as approved by physician and instructed by RN;

l. Flushing feeding tube with the amount of water specified by the RN;

m. Clamping and securing tube;

n. Cleansing and covering site as instructed;

o. Documenting feeding;

p. Confirming patient comfort, e.g., leaving head of bed elevated or patient positioned comfortably in chair for 30-60 minutes; and

q. Documenting resident's tolerance of feeding and any other observations related to the condition and care of the site.

3. Prior to independently administering any tube feedings, the direct care staff person shall successfully demonstrate competency without prompting and without assistance in all of the procedures specified in subdivision 2 of this subsection. The delegating RN shall observe and document a minimum of two successful demonstrations before authorizing in writing the direct care staff member to perform the tube feeding independently.

NOTE: The authorization only applies for more than one resident when the delegating RN has verified and documented that the same type of feeding tube, feeding, and method of administration are used for each resident.

4. Written protocols that encompass the basic policies and procedures for the performance of gastric tube feedings shall be available to any direct care staff member responsible for tube feedings.

5. Contact information for the delegating RN shall be readily available to all staff responsible for tube feedings when an RN or LPN is not present in the facility.

6. The facility shall have a written back-up plan to ensure that a person who is qualified as specified in this subsection is available if the direct care staff member who usually provides the care is absent.

L. When care for a resident's special medical needs is provided by licensed staff of a home care agency, the assisted living facility direct care staff may receive training from the home care agency staff in appropriate treatment monitoring techniques regarding safety precautions and actions to take in case of emergency.

M. Notwithstanding § 63.2-1805 of the Code of Virginia, at the request of the resident, hospice care may be provided in an assisted living facility under the same requirements for hospice programs provided in Article 7 (§ 32.1-162.1 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia, if the hospice program determines that such program is appropriate for the resident.

22 VAC 40-72-350. Physical examination and report.

A. A person shall have a physical examination by an independent physician, including screening for tuberculosis, within 30 days prior to the date of admission. The report of such examination shall be on file at the assisted living facility and shall contain the following:

1. The date of the physical examination;

2. Height, weight, and blood pressure;

3. Significant medical history;

4. General physical condition, including a systems review as is medically indicated;

5. Any diagnosis or significant problems;

6. Any allergies;

7. Any recommendations for care including medication, diet and therapy;

8. Results of a risk assessment documenting the absence of tuberculosis in a communicable form as evidenced by the completion of the current screening form published by the Virginia Department of Health or a form consistent with it;

9. A statement that the individual does not have any of the conditions or care needs prohibited by 22 VAC 40-72-340 G;

10. A statement that specifies whether the individual is considered to be ambulatory or nonambulatory; and

11. The signature of the examining physician or his designee.

NOTE: See 22 VAC 40-72-10, definition of "licensed health care professional" for clarification regarding "physician."

B. When a person is accepted for respite care or on an intermittent basis, the physical examination report shall be valid for six months.

C. Subsequent tuberculosis evaluations.

1. A risk assessment for tuberculosis shall be completed annually on each resident as evidenced by the completion of the current screening form published by the Virginia Department of Health or a form consistent with it.

2. Any resident who comes in contact with a known case of infectious tuberculosis shall be screened as deemed appropriate in consultation with the local health department.

3. Any resident who develops respiratory symptoms of three or more weeks duration shall be evaluated immediately for the presence of infectious tuberculosis.

4. If a resident develops an active case of tuberculosis, the facility shall report this information to the local health department.

D. The department, at any time, may request a report of a current psychiatric or physical examination, giving the diagnoses or evaluation or both, for the purpose of determining whether the resident's needs may continue to be met in the assisted living facility. When requested, this report shall contain information as specified by the department.

22 VAC 40-72-360. Mental health assessment.

A. If there are observed behaviors or patterns of behavior indicative of mental illness, mental retardation, substance abuse, or behavioral disorders, as documented in the uniform assessment instrument, the facility administrator or designated staff member shall ensure that an evaluation of the individual is or has been conducted by a qualified mental health professional. The evaluation shall include an assessment of the person's psychological, behavioral, and emotional functioning. Conditions for which an evaluation is required include, but are not limited to:

1. One or more acts of aggression against self, others, or property, that resulted in the resident being hospitalized, jailed, forced to leave a residence, or retained by the facility but managed using emergency measures;

2. Alcohol or drug abuse;

3. Noncompliant with psychotropic medications to the extent that intervention by a qualified mental health professional was required to prevent or reduce the risk of decompensation;

4. Disturbance in thinking, reasoning, and judgment that placed the resident or others at risk for harm;

5. Bizarre or maladaptive behavior such as reacting to irrational beliefs, visual or auditory hallucinations or engaging in behaviors such as pacing, rocking, mumbling to self, speaking incoherently, avoiding social interactions;

6. Significant dysfunction in two or more of the following areas: interpersonal communication, problem-solving, personal care, independent living, education, vocation, leisure, community awareness, self-direction, and self-preservation; and

7. Any other condition for which an assessment is recommended by the administrator, a case manager or other assessor.

B. The administrator or designated staff member shall ensure that an assessment of a person's psychological, behavioral, and emotional functioning is or has been conducted by a qualified mental health professional when at least one of the behaviors or conditions noted in subsection A of this section has occurred within the past six months. The sources of such information regarding behaviors or conditions may include, but are not limited to, the uniform assessment instrument, family members, the referring agency, or a facility staff person.

C. The administrator shall ensure that the evaluation or assessment required by subsections A and B of this section meets the following criteria:

1. If required for the purpose of making an admission decision, the assessment is not more than three months old.

2. The assessment covers at least the following areas of the person's current functioning and functioning for the six months prior to the date of the assessment:

a. Cognitive functions;

b. Thought and perception;

c. Mood/affect;

d. Behavior/psychomotor;

e. Speech/language;

f. Appearance;

g. Alcohol and drug dependence/abuse;

h. Medication compliance; and

i. Psychosocial functioning.

3. The assessment is completed by a qualified mental health professional having no financial interest in the assisted living facility, directly or indirectly as an owner, officer, employee, or as an independent contractor with the facility.

4. A copy of the assessment, if the person is admitted or is a current resident, is filed in the resident's record.

D. If the evaluation or assessment indicates a need for mental health, mental retardation, substance abuse, or behavioral disorder services, the facility shall provide:

1. A notification of the resident's need for such services to the authorized contact person of record when available; and

2. A notification of the resident's need for such services to the community services board or behavioral health authority that serves the city or county in which the facility is located, or other appropriate licensed provider.

E. As part of the process for determining appropriateness of admission, when a person with a mental health disability is referred by a state or private hospital, community services board, behavioral health authority, or long-term care facility, collateral information and supporting documentation, e.g., progress notes, shall be collected on the person's psychological, behavioral, and emotional functioning. In the case where the person is coming from a private residence, only collateral information shall be required and may be gathered from an interview with someone involved in the primary care of the person.

1. The collateral information and supporting documentation shall cover a period of not less than six months of the person's care or treatment at the referring facility, or if the person's stay at the facility is less than six months, then the collateral information and documentation shall cover the person's entire stay.

2. The administrator shall document that the collateral information and supporting document were reviewed and used to help determine the appropriateness of the person's admission.

3. The administrator shall ensure that a copy of collateral information and supporting documentation, if the person is admitted, is filed in the resident's record.

NOTE: When applicable, see 22 VAC 40-72-510 regarding high risk behavior.

22 VAC 40-72-370. Emergency placement.

A. An emergency placement shall occur only when the emergency is documented and approved by a Virginia adult protective services worker or case manager for public pay individuals or an independent physician or a Virginia adult protective services worker for private pay individuals.

B. When an emergency placement occurs, the person shall remain in the assisted living facility no longer than seven working days unless all the requirements for admission have been met and the person has been admitted.

22 VAC 40-72-380. Resident personal and social information.

A. Prior to or at the time of admission to an assisted living facility, the following personal and social information on a person shall be obtained and placed in the individual's record:

1. Name;

2. Last home address, and address from which resident was received, if different;

3. Date of admission;

4. Social security number;

5. Birthdate (if unknown, estimated age);

6. Birthplace, if known;

7. Marital status, if known;

8. Name, address and telephone number of all legal representatives, if any;

9. Copies of current legal documents that show proof of each legal representative's authority to act on behalf of the resident and that specify the scope of the representative's authority to make decisions and to perform other functions;

10. Name, address and telephone number of next of kin, if known (two preferred);

11. Name, address and telephone number of designated contact person authorized by the resident or legal representative, if appropriate, for notification purposes, including emergency notification and notification of the need for mental health, mental retardation, substance abuse, or behavioral disorder services (if resident or legal representative willing to designate an authorized contact person);

NOTE: There may be more than one designated contact person.

NOTE: The designated contact person may also be listed under another category, such as next of kin or legal representative.

12. Name, address and telephone number of the responsible individual stipulated in 22 VAC 40-72-550 G, if needed;

13. Name, address and telephone number of personal physician, if known;

14. Name, address and telephone number of personal dentist, if known;

15. Name, address and telephone number of clergyman and place of worship, if applicable;

16. Name, address and telephone number of local department of social services or any other agency, if applicable, and the name of the assigned case manager or caseworker;

17. Service in the armed forces, if applicable;

18. Special interests and hobbies;

19. Information concerning advance directives, Do Not Resuscitate (DNR) orders, or organ donation, if applicable; and

20. For residents who meet the criteria for assisted living care, additional information to be included:

a. Description of family structure and relationships;

b. Previous mental health/mental retardation services history, if any, and if applicable for care or services;

c. Current behavioral and social functioning including strengths and problems; and

d. Any substance abuse history if applicable for care or services.

22 VAC 40-72-390. Resident agreement with facility.

A. At or prior to the time of admission, there shall be a written agreement/acknowledgment of notification dated and signed by the resident/applicant for admission or the appropriate legal representative, and by the licensee or administrator. This document shall include the following:

1. Financial arrangement for accommodations, services and care that specifies:

a. Listing of specific charges for accommodations, services, and care to be made to the individual resident signing the agreement, the frequency of payment, and any rules relating to nonpayment;

b. Description of all accommodations, services, and care that the facility offers and any related charges;

c. The amount and purpose of an advance payment or deposit payment and the refund policy for such payment;

d. The policy with respect to increases in charges and length of time for advance notice of intent to increase charges;

e. If the ownership of any personal property, real estate, money or financial investments is to be transferred to the facility at the time of admission or at some future date, it shall be stipulated in the agreement; and

f. The refund policy to apply when transfer of ownership, closing of facility, or resident transfer or discharge occurs.

2. Requirements or rules to be imposed regarding resident conduct and other restrictions or special conditions and signed acknowledgment that they have been reviewed by the resident or his legal representative.

3. Acknowledgment that the resident or his legal representative has been informed of the policy regarding the amount of notice required when a resident wishes to move from the facility.

4. Acknowledgment that the resident has been informed of the policy required by 22 VAC 40-72-840 J regarding weapons.

5. Those actions, circumstances, or conditions that would result or might result in the resident's discharge from the facility.

6. Acknowledgment that the resident or his legal representative or responsible individual as stipulated in 22 VAC 40-72-550 G has reviewed a copy of § 63.2-1808 of the Code of Virginia, Rights and Responsibilities of Residents of Assisted Living Facilities, and that the provisions of this statute have been explained to him.

7. Acknowledgment that the resident or his legal representative or responsible individual as stipulated in 22 VAC 40-72-550 G has reviewed and had explained to him the facility's policies and procedures for implementing § 63.2-1808 of the Code of Virginia, including the grievance policy and the transfer/discharge policy.

8. Acknowledgment that the resident has been informed that interested residents may establish and maintain a resident council, that the facility is responsible for providing assistance with the formation and maintenance of the council, whether or not such a council currently exists in the facility, and the general purpose of a resident council. (See 22 VAC 40-72-810.)

9. Acknowledgment that the resident has been informed of the bed hold policy in case of temporary transfer, if the facility has such a policy.

10. Acknowledgment that the resident has been informed of the rules and restrictions regarding smoking on the premises of the facility, including but not limited to that which is required by 22 VAC 40-72-800.

11. Acknowledgment that the resident has been informed of the policy regarding the administration and storage of medications and dietary supplements.

B. Copies of the signed agreement/acknowledgment of notification shall be provided to the resident and as appropriate, his legal representative and shall be retained in the resident's record.

C. The facility shall review annually with the resident the terms of the written agreement/acknowledgement of notification required in subsection A of this section. Evidence of this review shall be the resident's written acknowledgement

of having been so informed, which shall include the date of the review and which shall be filed in his record.

D. A new agreement shall be signed or the original agreement shall be updated and signed by the licensee or administrator and the resident or his legal representative when there are changes in financial arrangements, services, or requirements governing the resident's conduct. If the original agreement provides for specific changes in financial arrangements, services, or requirements, this standard does not apply.

22 VAC 40-72-400. Orientation and related information for residents.

A. Upon admission, the assisted living facility shall provide an orientation for new residents and their legal representatives including but not limited to emergency response procedures, mealtimes, and use of the call system. If needed, the orientation shall be modified as appropriate for residents with serious cognitive impairments. Acknowledgement of having received the orientation shall be signed and dated by the resident and as appropriate, his legal representative and such documentation shall be kept in the resident's record.

B. Upon admission and upon request, the assisted living facility shall provide to the resident and, if appropriate, his legal representative, a written description of the types of employees working in the facility and the services provided, including the hours such services are available.

22 VAC 40-72-410. Acceptance back in facility.

A. An assisted living facility shall establish a process to ensure that any resident temporarily detained in an inpatient facility pursuant to § 37.2-809 of the Code of Virginia is accepted back in the assisted living facility if the resident is not involuntarily committed pursuant to § 37.2-814 through 37.2-816 of the Code of Virginia.

B. If an assisted living facility allows for temporary movement of a resident with agreement to hold a bed, it shall develop and follow a written bed hold policy, which includes, but is not limited to, the conditions for which a bed will be held, any time frames, terms of payment, and circumstances under which the bed will no longer be held.

22 VAC 40-72-420. Discharge of residents.

A. When actions, circumstances, conditions, or care needs occur that will result in the discharge of a resident, discharge planning shall begin immediately. The resident shall be moved within 30 days, except that if persistent efforts have been made and the time frame is not met, the facility shall document the reason and the efforts that have been made.

B. As soon as discharge planning begins, the assisted living facility shall notify the resident and the resident's legal representatives and designated contact person if any, of the planned discharge, the reason for the discharge, and that the resident will be moved within 30 days unless there are extenuating circumstances as referenced in subsection A of this section. Notification of the actual discharge date shall occur at least 14 calendar days prior to the date that the resident will be discharged.

C. The assisted living facility shall adopt and conform to a written policy regarding the number of calendar days notice that is required when a resident wishes to move from the facility. Any required notice of intent to move shall not exceed 30 days.

D. The facility shall assist the resident and his legal representative, if any, in the discharge or transfer processes. The facility shall help the resident prepare for relocation, including discussing the resident's destination. Primary responsibility for transporting the resident and his possessions rests with the resident or his legal representative.

E. When a resident's condition presents an immediate and serious risk to the health, safety or welfare of the resident or others and emergency discharge is necessary, 14-day notification of planned discharge does not apply, although the reason for the relocation shall be discussed with the resident and, when possible, his legal representative prior to the move.

F. Under emergency conditions, the resident's legal representative, designated contact person, the family, caseworker, social worker or other agency personnel, as appropriate, shall be informed as rapidly as possible, but by the close of the business day following discharge, of the reasons for the move.

G. If the resident's uniform assessment instrument has been completed by a public human services agency assessor, the assisted living facility shall notify such assessor of the date and place of discharge as well as when a resident dies, within 10 days of the resident's discharge or death.

H. Discharge statement.

1. At the time of discharge, except as noted in subdivision 2 of this subsection, the assisted living facility shall provide to the resident and, as appropriate, his legal representative and designated contact person a dated statement signed by the licensee or administrator that contains the following information:

a. The date on which the resident, his legal representative or designated contact person was notified of the planned discharge and the name of the legal representative or designated contact person who was notified;

b. The reason or reasons for the discharge;

c. The actions taken by the facility to assist the resident in the discharge and relocation process; and

d. The date of the actual discharge from the facility and the resident's destination.

2. When the termination of care is due to emergency conditions, the dated statement shall contain the above information as appropriate and shall be provided or mailed to the resident, his legal representative, or designated contact person as soon as practicable and within 48 hours from the time of the decision to discharge.

3. A copy of the written statement shall be retained in the resident's record.

I. When the resident is discharged and moves to another caregiving facility, the assisted living facility shall provide to the receiving facility such information related to the resident as is necessary to ensure continuity of care and services. Original information pertaining to the resident shall be maintained by the assisted living facility from which the resident was discharged. The assisted living facility shall maintain a listing of all information shared with the receiving facility.

J. Within 60 days of the date of discharge, each resident or his legal representative shall be given a final statement of account, any refunds due, and return of any money, property or things of value held in trust or custody by the facility.

PART VI.
RESIDENT CARE AND RELATED SERVICES.

22 VAC 40-72-430. Uniform assessment instrument (UAI).

A. All residents of and applicants to assisted living facilities shall be assessed face-to-face using the uniform assessment instrument pursuant to the requirements in Assessment in Adult Care Residences (22 VAC 40-745). Assessments shall be completed prior to admission, annually, and whenever there is a significant change in the resident's condition.

1. For private pay individuals, the UAI shall be completed by one of the following qualified assessors:

a. An assisted living facility employee who has successfully completed state-approved training on the uniform assessment instrument and level of care criteria for either public or private pay assessments, provided the administrator or the administrator's designated representative approves and then signs the completed UAI, and the facility maintains documentation of the completed training;

EXCEPTION: An assisted living facility employee who began employment at the facility prior to (insert the effective date of the standards) and who had documented training that was not state-approved in the completion of the UAI and application of level of care criteria shall meet the requirements for state approved training within one year from (insert the effective date of the standards);

b. An independent physician;

c. A qualified public human services agency assessor.

2. For public pay individuals, the UAI shall be completed by a case manager or qualified assessor as specified in 22 VAC 40-745.

B. The UAI shall be completed within 90 days prior to the date of admission to the assisted living facility except that if there has been a change in the resident's condition since the completion of the UAI that would affect the admission, a new UAI shall be completed.

C. When a resident moves to an assisted living facility from another assisted living facility or other long-term care setting that uses the UAI, if there is a completed UAI on record, another UAI does not have to be completed except that a new UAI shall be completed whenever:

1. There is a significant change in the resident's condition; or

2. The assessment was completed more than 12 months ago.

D. The assessor is responsible for being knowledgeable of the criteria for level of care and authorizing the individual for the appropriate level of care for admission to and for continued stay in an assisted living facility based on the information in the UAI.

E. For private pay individuals, the assisted living facility shall ensure that the uniform assessment instrument is completed as required by 22 VAC 40-745.

F. For private pay residents, the assisted living facility shall be responsible for coordinating with an independent physician or a qualified human services agency assessor to ensure that UAIs are completed as required.

G. The assisted living facility shall be in compliance with all requirements set forth in 22 VAC 40-745.

H. The facility shall maintain the completed UAI in the resident's record.

I. At the request of the assisted living facility, the resident, the resident's legal representative, the resident's physician, the department, or the local department of social services, an independent assessment using the UAI shall be completed to determine whether the resident's care needs are being met in the assisted living facility. The assisted living facility shall assist the resident in obtaining the independent assessment as requested.

NOTE: An independent assessment is one that is completed by a qualified entity other than the original assessor.

J. During an inspection or review, staff from the department, the Department of Medical Assistance Services, or the local department of social services may initiate a change in level of care for any assisted living facility resident for whom it is determined that the resident's UAI is not reflective of the resident's current status.

K. The facility shall ensure that facility employees and independent physicians who are qualified assessors advise orally and in writing all applicants to and residents of assisted living facilities of the right to appeal the outcome of the assessment, the annual reassessment, or determination of level of care.

22 VAC 40-72-440. Individualized service plans.

A. The licensee/administrator who has completed an individualized service plan (ISP) training program approved by the department or his designee who has completed such a program shall develop and implement an individualized service plan to meet the resident's service needs. The licensee/administrator or designee shall develop and implement the ISP in conjunction with the resident, and as appropriate, with the resident's family, legal representative, direct care staff members, case manager, health care

providers or other persons. The plan shall be designed to maximize the resident's level of functional ability.

NOTE: An individualized service plan is not required for those residents who are assessed as capable of maintaining themselves in an independent living status.

B. The service plan to address the immediate needs of the resident shall be completed within 72 hours of admission. The comprehensive plan shall be completed within 30 days after admission and shall include the following:

1. Description of identified needs based upon the (i) UAI; (ii) admission physical examination; (iii) interview with resident; (iv) assessment of psychological, behavioral and emotional functioning, if appropriate; and (v) other sources;

2. A written description of what services will be provided and who will provide them;

3. When and where the services will be provided; and

4. The expected outcome and date of expected outcome.

C. The individualized service plan shall reflect the resident's assessed needs and support the principles of individuality, personal dignity, freedom of choice and home-like environment and shall include other formal and informal supports that may participate in the delivery of services. Whenever possible, residents shall be given a choice of options regarding the type and delivery of services.

D. The intervention plan developed to address high risk behavior, as specified in 22 VAC 40-72-510, shall be incorporated into the individualized service plan.

E. When hospice care is provided to a resident, the assisted living facility and the licensed hospice organization shall communicate, establish and agree upon a coordinated plan of care for the resident. The services provided by each shall be included on the individualized service plan.

F. The individualized service plan shall be signed and dated by the licensee/administrator or his designee, i.e., the person who has developed the plan, and by the resident or his legal representative. The plan shall also be signed and dated by any other individuals who contributed to the development of the plan. Each person signing the plan shall note his title or relationship to the resident next to his signature. These requirements shall also apply to reviews and updates of the plan.

G. The master service plan shall be filed in the resident's record. A current copy shall be maintained in a location accessible at all times to direct care staff, but that protects the confidentiality of the contents of the service plan. Extracts from the plan may be filed in locations specifically identified for their retention, e.g., dietary plan in kitchen.

H. The facility shall ensure that the care and services specified in the individualized service plan are provided to each resident.

EXCEPTION: There may be a deviation from the plan when mutually agreed upon between the facility and the resident or the resident's legal representative at the time the care or services are scheduled or when there is an emergency that prevents the care or services from being provided. Deviation from the plan shall be documented in writing, including a description of the circumstances, the date it occurred, and the signatures of the parties involved, and the documentation shall be retained in the resident's record.

NOTE TO EXCEPTION: The facility may not start, change or discontinue medications, diets, medical procedures or treatments without an order from the physician.

I. Outcomes shall be noted on the individualized plan or on a separate document as outcomes are achieved, and progress toward reaching expected outcomes shall be noted on the service plan or other document at least annually. Personnel making such notes shall sign and date them.

J. Individualized service plans shall be reviewed and updated at least once every 12 months and as needed as the condition of the resident changes. The review and update shall be performed by a staff person who has completed an ISP training program approved by the department, in conjunction with the resident, and as appropriate, with the resident's family, legal representative, direct care staff, case manager, health care providers or other persons.

22 VAC 40-72-450. Personal care services and general supervision and care.

A. The facility shall assume general responsibility for the health, safety and well-being of the residents.

B. Care provision and service delivery shall be resident-centered to the maximum extent possible, and include:

1. Resident participation in decisions regarding the care and services provided to him; and

2. Personalization of care and services tailored to the resident's circumstances and preferences.

C. Care shall be furnished in a way that fosters the independence of each resident and enables him to fulfill his potential.

D. The facility shall provide supervision of resident schedules, care and activities, including attention to specialized needs, such as prevention of falls and wandering off the premises.

E. The facility shall regularly observe each resident for changes in physical, mental, emotional and social functioning.

1. Any notable change in a resident's condition or functioning, including illness, injury, or altered behavior and action taken shall be documented in the resident's record.

2. The facility shall provide appropriate assistance when observation reveals unmet needs.

F. Employees shall promptly respond to resident needs as reasonable to the circumstances.

G. The facility shall notify the next of kin, legal representative, designated contact person, and any responsible social agency, as appropriate, of any incident of a resident falling or wandering from the premises, whether or not it results in injury. This notification shall occur as soon as possible but at least within 24 hours from the time of initial discovery or knowledge of the incident. The resident's record shall include

documentation of the notification, including date, time, caller, and person notified.

EXCEPTION: If the whereabouts of a resident are unknown and there is reason to be concerned about his safety, the facility shall immediately notify the appropriate law-enforcement agency, the resident's next of kin, legal representative, designated contact person, and any responsible social agency, as appropriate.

H. The facility shall provide care and services to each resident by employees who are able to communicate with the resident in a language the resident understands; or the facility shall make provisions for communications between employees and residents to ensure an accurate exchange of information.

I. The facility shall ensure that personal assistance and care are provided to each resident as necessary so that the needs of the resident are met, including but not limited to assistance or care with:

1. The activities of daily living:

a. Bathing (at least twice a week, but more often if needed or desired);

b. Dressing;

c. Toileting;

d. Transferring;

e. Bowel control;

f. Bladder control; and

g. Eating/feeding;

2. The instrumental activities of daily living:

a. Meal preparation;

b. Housekeeping;

c. Laundry; and

d. Managing money;

3. Ambulation;

4. Hygiene and grooming:

a. Shampooing, combing and brushing hair;

b. Shaving;

c. Trimming fingernails and toenails (certain medical conditions necessitate that this be done by a licensed health care professional);

d. Daily tooth brushing and denture care; and

e. Skin care at least twice daily for those with limited mobility;

5. Functions and tasks:

a. Arrangements for transportation;

b. Arrangements for shopping;

c. Use of the telephone; and

d. Correspondence.

J. Each resident shall be dressed in clean clothing and be free of odors. Each resident shall be encouraged to wear day clothing when out of bed.

K. Residents who are incontinent shall have a full or partial bath, clean clothing and linens each time their clothing or bed linen is soiled or wet.

L. The facility shall ensure each resident is able to obtain individually preferred personal care items when:

1. The preferred personal care items are reasonably available; and

2. The resident is willing and able to pay for the preferred items.

22 VAC 40-72-460. Health care services.

A. The facility shall ensure, either directly or indirectly, that the health care service needs of residents are met. The ways in which the needs may be met include, but are not limited to:

1. Employees of the facility providing health care services;

2. Persons employed by a resident providing health care services; or

3. The facility assisting residents in making appropriate arrangements for health care services.

a. When a resident is unable to participate in making appropriate arrangements, the resident's family, legal representative, designated contact person, cooperating social agency or personal physician shall be notified of the need.

b. When mental health care is needed or desired by a resident, this assistance shall include securing the services of the local community mental health and mental retardation services board, state or federal mental health clinic or similar facility or agent in the private sector.

B. A resident's need for skilled nursing treatments within the facility shall be met by the facility's employment of a licensed nurse or contractual agreement with a licensed nurse, or by a home health agency or by a private duty licensed nurse.

C. Services shall be provided to prevent clinically avoidable complications, including, but not limited to:

1. Pressure ulcer development or worsening of an ulcer;

2. Contracture;

3. Loss of continence;

4. Dehydration; and

5. Malnutrition.

D. When the resident suffers serious accident, injury, illness, or medical condition, or there is reason to suspect that such has occurred, medical attention from a licensed health care professional shall be secured immediately. The circumstances involved and the medical attention received shall be documented in the resident's record. The date and

times of occurrence, as well as the personnel involved shall be included in the documentation.

1. The resident's physician (if not already involved), next of kin, legal representative, designated contact person, case manager, and any responsible social agency, as appropriate, shall be notified as soon as possible but at least within 24 hours of the situation and action taken.

2. A notation shall be made in the resident's record of such notice, including the date, time, caller and person notified.

E. If a resident refuses medical attention, the facility shall notify the resident's physician immediately, and next of kin, legal representative, designated contact person, case manager, and any responsible social agency, as appropriate, as soon as possible but at least within 24 hours. A notation shall be made in the resident's record of such refusal and notification, including the date, time, caller and person notified.

F. If a resident refuses medical attention, the facility shall assess whether it can continue to meet the resident's needs.

22 VAC 40-72-470. Restorative, habilitative and rehabilitative services.

A. Facilities shall assure that all restorative care and habilitative service needs of the residents are met. Employees who are responsible for planning and meeting the needs shall have been trained in restorative and habilitative care. Restorative and habilitative care includes, but is not limited to, range of motion, assistance with ambulation, positioning, assistance and instruction in the activities of daily living, psychosocial skills training, and reorientation and reality orientation.

B. In the provision of restorative and habilitative care, staff shall emphasize services such as the following:

1. Making every effort to keep residents active, within the limitations set by physicians' orders;

2. Encouraging residents to achieve independence in the activities of daily living;

3. Assisting residents to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if they are no longer able to maintain past involvement in particular activities;

4. Assisting residents to carry out prescribed physical therapy exercises between appointments with the physical therapist; and

5. Maintaining a bowel and bladder training program.

C. Facilities shall arrange for specialized rehabilitative services by qualified personnel as needed by the resident. Rehabilitative services include physical therapy, occupational therapy and speech-language pathology services. Rehabilitative services may be indicated when the resident has lost or has shown a change in his ability to respond to or perform a given task and requires professional rehabilitative services in an effort to regain lost function. Rehabilitative services may also be indicated to evaluate the appropriateness and individual response to the use of assistive technology.

D. All rehabilitative services rendered by a rehabilitative professional shall be performed only upon written medical referral by a physician or other qualified health care professional.

E. The physician's orders, services provided, evaluations of progress, and other pertinent information regarding the rehabilitative services shall be recorded in the resident's record.

F. Direct care staff who are involved in the care of residents using assistive devices shall know how to operate and utilize the devices.

22 VAC 40-72-480. Health care oversight.

A. Each assisted living facility shall retain a licensed health care professional who has at least two years of experience in adult residential or day care, either by direct employment or on a contractual basis, to provide health care oversight.

1. For residents who meet the criteria for residential living care, the licensed health care professional, acting within the scope of the requirements of his profession, shall be on-site at least every six months and more often if indicated, based on his professional judgment of the seriousness of a resident's needs or the stability of a resident's condition.

2. For residents who meet the criteria for assisted living care, the licensed health care professional, acting within the scope of the requirements of his profession, shall be on-site at least every three months and more often if indicated, based on his professional judgment of the seriousness of a resident's needs or the stability of a resident's condition.

B. The responsibilities of the licensed health care professional while on-site shall include at least every three months or every six months as specified in subsection A of this section:

1. Recommending in writing changes to a resident's service plan whenever the plan does not appropriately address the current health care needs of the resident.

2. Monitoring of direct care staff performance of health-related activities, including the identification of any significant gaps in the staff person's ability to function competently.

3. Advising the administrator of the need for employee training in health-related activities or the need for other actions when appropriate to eliminate problems in competency level.

4. Providing consultation and technical assistance to employees as needed.

5. Directly observing every resident for whom the assisted living facility is receiving reimbursement from the Department of Medical Assistance Services for intensive assisted living services and recommending in writing any needed changes in the care provided or in the resident's service plan. The monitoring will be in accordance with the

specifications of the Department of Medical Assistance Services.

6. Reviewing documentation regarding health care services, including medication and treatment records to assess that services are being provided in accordance with physicians' orders, and informing the administrator of any problems.

7. Monitoring of conformance to the facility's medication management plan and the maintenance of required medication reference materials, and advising the administrator of any concerns.

8. Monitoring of infection control measures and advising the administrator of any concerns.

9. Reviewing the current condition and the records of restrained residents to assess the appropriateness of the restraint and progress toward its reduction or elimination, and advising the administrator of any concerns.

10. Documenting that the requirements of this section were met, including the signature(s) of the licensed health care professional(s) who provided each of the services and the date(s) the service was provided. Documentation for the past two years shall be maintained at the facility.

22 VAC 40-72-490. Community services board access.

All assisted living facilities shall provide reasonable access to staff or contractual agents of community services boards, local government departments with policy-advisory community services boards or behavioral health authorities as defined in § 37.2-100 of the Code of Virginia for the purposes of:

1. Assessing or evaluating clients residing in the facility;

2. Providing case management or other services or assistance to clients residing in the facility; or

3. Monitoring the care of clients residing in the facility.

Such staff or contractual agents also shall be given reasonable access to other facility residents who have previously requested their services.

22 VAC 40-72-500. Mental health services coordination, support, and agreement.

A. For each resident requiring mental health services, the services of the local community mental health, mental retardation and substance abuse services board, or a public or private mental health clinic, rehabilitative services agency, treatment facility or agent shall be secured as appropriate based on the resident's current evaluation.

B. The assisted living facility shall assist the resident in obtaining the services recommended in the initial evaluation and in the progress reports.

C. The facility shall enter into a written agreement with all providers of mental health services utilized by residents in the facility to assure that the services outlined in subsection D of this section are provided.

1. Providers of mental health services shall include the local community mental health, mental retardation, and substance abuse services board; public or private mental health clinic, treatment facility or agent; private psychiatrist, psychologist, therapist, or other appropriate mental health professional.

2. The facility shall maintain contact information for providers currently serving residents as a resource for other residents who may need mental health services.

3. A copy of the agreement shall remain on file in the assisted living facility.

D. Services to be included in the agreement shall at least be the following:

1. Diagnostic, evaluation and referral services in order to identify and meet the needs of the resident;

2. Appropriate community-based mental health, mental retardation and substance abuse services;

3. Services and support to meet emergency mental health needs of a resident; and

4. Completion of written progress reports as follows:

a. The facility shall obtain written progress reports on each resident receiving services from the local community mental health, mental retardation and substance abuse services board, or a public or private mental health clinic, treatment facility or agent; private psychiatrist, psychologist, therapist, or other appropriate mental health professional.

b. The progress reports shall be obtained at least every six months until it is stated in a report that services are no longer needed.

c. The progress reports shall contain at a minimum:

(1) A statement that continued services are or are not needed.

(a) If continued services are still required, a summary of progress.

(b) The status of any identified high risk behavior.

(2) Recommendations, if any, for continued services and the expected therapeutic outcomes;

(3) A statement that the resident's needs can continue to be met in an assisted living facility; and

(4) A statement of any recommended services to be provided by the assisted living facility.

d. Copies of the progress reports shall be filed in the resident's record.

E. If the facility is unsuccessful in obtaining the recommended services, it must document:

1. Whether it can continue to meet all other needs of the resident.

2. How it plans to ensure that the failure to obtain the recommended services will not compromise the health,

safety, or rights of the resident and others who come in contact with the resident.

3. The offices, agencies and individuals who were contacted and explanation of outcomes.

4. Details of additional steps the facility will take to find alternative services to meet the resident's needs.

22 VAC 40-72-510. Intervention for high risk behavior.

A. At any time that facility staff observe that the resident is exhibiting or verbalizing an intent to engage in high risk behavior, and it is:

1. Believed that a crisis situation has occurred as a result of the person's behaviors or thinking that has caused harm or presents the potential to cause harm to the person or others, the administrator shall ensure that the local community services board (CSB) is immediately contacted to request an evaluation for emergency intervention services; or

2. Believed that the person's behaviors or thinking may not rise to the level that would require professional emergency intervention, the administrator shall ensure that the responsible mental health professional is contacted regarding the concerns with the person's behaviors or thinking within 24 hours of observation.

a. If there is no one currently responsible for the treatment of the person exhibiting the mental health disturbance, a referral shall be made within 24 hours of observing the disturbance to the local CSB, or to a qualified mental health professional of the resident's choice, to determine whether there is a need for mental health services.

b. The facility shall document the referral made to the CSB or other mental health agency and note the availability and date that services can be rendered.

B. Following the initial notification of the CSB or other qualified mental health professional, the facility and the mental health treatment provider shall decide on the need for an intervention plan that shall be designed for and implemented by the facility. If there is a need for an intervention plan, the plan shall:

1. Include a behavioral management tracking form that:

a. Is developed, in consultation with the facility, by a qualified mental health treatment provider and when possible, in consultation with the resident or his legal representative.

b. Incorporates, at a minimum, the following information:

(1) Target or problem behaviors identified;

(2) Identified triggers, motivators, behaviors or conditions associated with target behaviors, including medication side effects;

(3) Interventions prescribed by mental health professionals or a facility supervisor to be employed by direct care staff;

(4) Dates and times behaviors were last observed;

(5) Impact of interventions on behaviors, or if prescribed interventions were not used, an explanation of the reason;

(6) General description of, and detailed when possible, any subsequent actions that must be considered by the facility following a negative outcome of the prescribed interventions;

(7) General description of, and detailed when possible, any subsequent actions that must be considered by the mental health treatment provider based on the presentation of the problems by the facility;

(8) Consideration of the need for an updated mental health evaluation.

c. Is maintained at the facility with:

(1) The original being filed in the record with the ISP for each resident.

NOTE: Should the tracking forms exceed five, the facility may choose to maintain the five most recent forms in the resident's current record and all others in an overflow record maintained for each resident.

(2) A duplicate copy being filed for each resident, in an identifiable binder to permit timely access to information by facility employees so that it might be used to help manage or prevent problem behaviors from escalating or recurring.

2. Be referenced in the ISP.

3. Be reviewed and incorporated, to include information obtained from the behavioral management tracking form, in the written progress report required by 22 VAC 40-72-500 D 4.

C. The facility shall have procedures in place to ensure that direct care staff members who have direct care responsibilities for residents with high risk behaviors are:

1. Provided training on monitoring (such as when using the behavioral management tracking form) and intervening when high-risk behaviors are exhibited;

2. Kept informed of the status of high-risk behaviors exhibited by residents;

D. The facility shall not implement a restrictive behavioral management plan, which limits or prevents a person from freely exercising targeted rights or privileges, unless:

1. The resident or legal representative has been informed of the need and description of the plan; and

2. The plan is approved and supervised by a qualified mental health professional with no financial interest in the facility.

22 VAC 40-72-520. Activity/recreational requirements.

A. In facilities licensed for residential living care only, there shall be at least 11 hours of scheduled activities available to the residents each week for no less than one hour each day.

B. In facilities licensed for both residential and assisted living care, there shall be at least 14 hours of scheduled activities available to the residents each week for no less than one hour each day.

C. Activities shall be varied and shall include, but not necessarily be limited to, the following categories: physical, social, cognitive/intellectual/creative, productive, sensory, reflective/contemplative, outdoor, and nature/natural world. Community resources as well as facility resources may be used to provide activities.

NOTE: Any given activity may fall under more than one category.

D. Activities shall be planned under the supervision of the administrator or his designee who shall encourage involvement of residents and employees in the planning.

E. The activities shall take into consideration individual differences in age, health status, sensory deficits, lifestyle, ethnicity, religious affiliation, values, experiences, needs, interests, abilities, and skills by providing opportunities for a variety of types of activities and levels of involvement.

F. Activities shall:

1. Meaningfully support the physical, social, mental, and emotional abilities and skills of residents; and

2. Promote or maintain the resident's highest level of independence or functioning.

G. There shall be a written schedule of activities that meets the following criteria:

1. The schedule of activities shall be developed at least monthly.

2. The schedule shall include:

a. Group activities for all residents or small groups of residents; and

b. The name, type, date and hour of the activity.

3. If one activity is substituted for another, the change shall be noted on the schedule.

4. The current month's schedule shall be posted in a conspicuous location in the facility or otherwise be made available to residents and their families.

5. The schedule of activities for the past six months shall be kept at the facility.

6. If a resident requires an individual schedule of activities, that schedule shall be a part of the individualized service plan.

H. Adequate supplies and equipment appropriate for the program activities shall be available in the facility.

I. Resident participation in activities.

1. Residents shall be encouraged but not forced to participate in activity programs offered by the facility and the community.

2. During an activity, each resident shall be encouraged but not coerced to join in at his level, to include observing.

3. Any restrictions on participation imposed by a physician shall be documented in the resident's record.

J. During a programmed activity, there shall be an adequate number of employees or volunteers to lead the activity, to assist the residents with the activity, to supervise the general area, and to re-direct any individuals who require different activities.

K. All equipment and supplies used shall be accounted for at the end of the activity so that a safe environment can be maintained.

L. The employee or volunteer leading the activity shall have a general understanding of the following:

1. Attention spans and functional levels of the residents in the group;

2. Methods to adapt the activity to meet the needs and abilities of the residents;

3. Various methods of engaging and motivating individuals to participate; and

4. The importance of providing appropriate instruction, education, and guidance throughout the activity.

22 VAC 40-72-530. Freedom of movement.

A. Any resident who does not have a serious cognitive impairment with an inability to recognize danger or protect his own safety and welfare shall be allowed to freely leave the facility. A resident who has a serious cognitive impairment and an inability to recognize danger or protect his own safety and welfare shall be subject to the provisions set forth in 22 VAC 40-72-1020 A or 22 VAC 40-72-1130 A.

B. Doors leading to the outside shall not be locked from the inside or secured from the inside in any manner that amounts to a lock, except that doors may be locked or secured in a manner that amounts to a lock in special care units as provided in 22 VAC 40-72-1130 A.

NOTE: Any devices used to lock or secure doors in any manner must be in accordance with applicable building and fire codes.

C. The facility shall provide freedom of movement for the residents to common areas and to their personal spaces. The facility shall not lock residents out of or inside their rooms.

22 VAC 40-72-540. Visiting in the facility.

A. Daily visits to residents in the facility shall be permitted.

B. If visiting hours are restricted, daily visiting hours shall be posted in a place conspicuous to the public.

C. The facility shall encourage regular family involvement with the resident and shall provide ample opportunities for family participation in activities at the facility.

22 VAC 40-72-550. Resident rights.

A. The resident shall be encouraged and informed of appropriate means as necessary to exercise his rights as a resident and a citizen throughout the period of his stay at the facility.

B. The resident has the right to voice or file grievances, or both, with the facility and to make recommendations for changes in the policies and services of the facility. The residents shall be protected by the licensee or administrator, or both, from any form of coercion, discrimination, threats, or reprisal for having voiced or filed such grievances.

C. Any resident of an assisted living facility has the rights and responsibilities as provided in § 63.2-1808 of the Code of Virginia and this chapter.

D. The operator or administrator of an assisted living facility shall establish written policies and procedures for implementing § 63.2-1808 of the Code of Virginia.

E. The rights and responsibilities of residents shall be printed in at least 12-point type and posted conspicuously in a public place in all assisted living facilities. The facility shall also post the name, title and telephone number of the appropriate regional licensing supervisor of the department, the Adult Protective Services' toll-free telephone number, the toll-free telephone number of the Virginia Long-Term Care Ombudsman Program and any substate (local) ombudsman program serving the area, and the toll-free telephone number of the Virginia Office for Protection and Advocacy.

F. The rights and responsibilities of residents in assisted living facilities shall be reviewed annually with each resident or his legal representative or responsible individual as stipulated in subsection G of this section and each employee. Evidence of this review shall be the resident's, his legal representative's or responsible individual's, or employee's written acknowledgment of having been so informed which shall include the date of the review and shall be filed in the resident's or employee's record.

G. If a resident is unable to fully understand and exercise the rights and responsibilities contained in § 63.2-1808 of the Code of Virginia, the facility shall require that a legal representative or a responsible individual, of the resident's choice when possible, designated in writing in the resident's record, annually be made aware of each item in § 63.2-1808 and the decisions that affect the resident or relate to specific items in § 63.2-1808.

1. A resident shall be assumed capable of understanding and exercising these rights unless a physician determines otherwise and documents the reasons for such determination in the resident's record.

2. The facility shall seek a determination and reasons for the determination from a resident's physician regarding the resident's capability to understand and exercise these rights when there is reason to believe that the resident may not be capable of such.

H. The facility shall make its policies and procedures for implementing § 63.2-1808 of the Code of Virginia available and accessible to residents, relatives, agencies, and the general public.

22 VAC 40-72-560. Resident records.

A. The facility shall establish written policy and procedures for documentation and recordkeeping to ensure that the information in resident records is accurate and clear and that the records are well-organized.

B. Any forms used for recordkeeping shall contain at a minimum the information specified in this chapter. Model forms, which may be copied, will be supplied by the department upon request.

C. Any physician's notes and progress reports in the possession of the facility shall be retained in the resident's record.

D. Copies of all agreements between the facility and the resident and official acknowledgment of required notifications, signed by all parties involved, shall be retained in the resident's record. Copies shall be provided to the resident, and to persons whose signatures appear on the document.

E. All records that contain the information required by these standards for residents shall be retained at the facility and kept in a locked area, except that information shall be made available as noted in subsection F of this section.

F. The licensee shall assure that all records are treated confidentially and that information shall be made available only when needed for care of the resident. All records shall be made available for inspection by the department's representative.

G. Residents shall be allowed access to their own records.

H. The resident's record shall be kept current and the complete record shall be retained for at least two years after the resident leaves the facility.

I. A current picture of each resident shall be readily available for identification purposes, or if the resident refuses to consent to a picture, there shall be a narrative physical description, which is annually updated, maintained in his file.

22 VAC 40-72-570. Release of information from resident's record.

A. The resident or the appropriate legal representative has the right to release information from the resident's record to persons or agencies outside the facility.

B. The licensee is responsible for making available to residents and legal representatives, a form which they may use to grant their written permission to release information to persons or agencies outside the facility. The facility shall retain a copy of any signed release of information form in the resident's record.

NOTE: A model form, which may be copied, may be obtained from the department.

C. Only under the following circumstances is a facility permitted to release information from the resident's records or information regarding the resident's personal affairs without

the written permission of the resident or his legal representative, where appropriate:

1. When records have been properly subpoenaed;

2. When the resident is in need of emergency medical care and is unable or unwilling to grant permission to release information or his legal representative is not available to grant permission;

3. When the resident moves to another caregiving facility;

4. To representatives of the department; or

5. As otherwise required by law.

D. When a resident is hospitalized or transported by emergency medical personnel, information necessary to the care of the resident, on such matters as medications, advance directives, and organ donation, shall be furnished by the facility to the hospital or emergency medical personnel, if appropriate.

NOTE: See previous subsections in this section to determine whether or not written permission from the resident or his legal representative is needed.

22 VAC 40-72-580. Food service and nutrition.

A. When any portion of an assisted living facility is subject to inspection by the State Department of Health, the facility shall be in compliance with those regulations, as evidenced by an initial and subsequent annual reports from the State Department of Health. The report shall be retained at the facility for a period of at least two years.

B. All meals shall be served in the dining area as designated by the facility, except that:

1. If the facility offers routine or regular room service, residents shall be given the option of having meals in the dining area or in their rooms, provided that:

a. If a resident chooses to have meals in his room, there is a written agreement to this effect, signed and dated by both the resident and the licensee or administrator, and the agreement is filed in the resident's record.

b. If a resident's individualized service plan, physical examination report, mental health status report or any other document indicates that the resident has a psychiatric condition that contributes to self-isolation, a qualified mental health professional shall make a determination in writing whether the person should have the option of having meals in his room. If the determination is made that the resident should not have this option, then the resident shall have his meals in the dining area.

2. Under special circumstances, such as temporary illness or temporary incapacity, or temporary agitation of a resident with serious cognitive impairment, meals may be served in a resident's room.

3. When meals are served in a resident's room, a sturdy table must be used.

C. Residents with independent living status who have kitchens equipped with stove, refrigerator and sink within their individual apartments may have the option of obtaining meals from the facility or from another source.

1. The facility must have an acceptable health monitoring plan for these residents and provide meals both for other residents and for residents identified as no longer capable of maintaining independent living status.

2. An acceptable health monitoring plan includes assurance of adequate resources, accessibility to food, a capability to prepare food, and availability of meals when the resident is sick or temporarily unable to prepare meals for himself.

D. Personnel shall be available to help any resident who may need assistance in reaching the dining room or when eating.

E. A minimum of 30 minutes shall be allowed for each resident to complete a meal. If a resident has been assessed on the UAI as dependent in eating/feeding, his individualized service plan shall indicate an approximate amount of time needed for meals to ensure needs are met.

F. Facilities shall develop and implement a policy to monitor each resident's food consumption for:

1. Warning signs of changes in physical or mental status related to nutrition; and

2. Compliance with any needs determined by the individualized service plan or prescribed by a physician, nutritionist or health care professional.

G. Facilities shall implement automatic interventions as soon as a nutritional problem is suspected. These interventions shall include, but are not limited to the following:

1. Weighing residents at least monthly to determine whether the resident has significant weight loss (5.0% weight loss in one month, 7.5% in three months, or 10% in six months); and

2. Notifying the attending physician if a significant weight loss is identified in any resident who is not on a physician-approved weight reduction program, and obtain, document and follow the physician's instructions regarding nutritional care.

22 VAC 40-72-590. Observance of religious dietary practices.

A. The resident's religious dietary practices shall be respected.

B. Religious dietary laws (or practices) of the administrator or licensee shall not be imposed upon residents unless mutually agreed upon in the admission agreement between administrator or licensee and resident.

22 VAC 40-72-600. Time interval between meals.

A. Time between the evening meal and breakfast the following morning shall not exceed 15 hours.

B. There shall be at least four hours between breakfast and lunch and at least four hours between lunch and supper.

C. When multiple seatings are required due to limited dining space, scheduling shall ensure that these time intervals are met for all residents. Schedules shall be made available to residents, legal representatives, employees, volunteers and any other persons responsible for assisting residents in the dining process.

22 VAC 40-72-610. Number of meals.

A. At least three well-balanced meals, served at regular intervals, shall be provided daily to each resident, unless contraindicated as documented by the attending physician in the resident's record or as provided for in 22 VAC 40-72-580 C.

B. Bedtime and between meal snacks shall be made available for all residents desiring them, or in accordance with their service plans, and shall be listed on the daily menu. Vending machines shall not be used as the only source for snacks.

22 VAC 40-72-620. Menus for meals and snacks.

A. Food preferences of residents shall be considered when menus are planned.

B. Menus for the current week shall be dated and posted in an area conspicuous to residents.

C. Any menu substitutions or additions shall be recorded on the posted menu.

D. A record shall be kept of the menus served for three months.

E. Minimum daily menu.

1. Unless otherwise ordered in writing by the resident's physician, the daily menu, including snacks, for each resident shall meet the current guidelines of the U.S. Department of Agriculture's food guidance system or the dietary allowances of the Food and Nutritional Board of the National Academy of Sciences, taking into consideration the age, sex and activity of the resident.

2. Other foods may be added.

3. Second servings and snacks shall be provided, if requested, at no additional charge.

4. At least one meal each day shall include a hot main dish.

F. Special diets. When a diet is prescribed for a resident by his physician, it shall be prepared and served according to the physician's orders.

G. There shall be on-site quarterly oversight of special diets by a dietitian or nutritionist, each of whom must meet the requirements of § 54.1-2731 of the Code of Virginia and 18 VAC 75-30, Regulations Governing Standards for Dietitians and Nutritionists. The quarterly oversight shall include a review of the physician's order and the preparation and delivery of the special diet for each resident who has such a diet. The quarterly oversight shall also include an evaluation of the adequacy of each resident's special diet and the resident's acceptance of the diet. The dietitian or nutritionist shall provide a written report within two weeks to the facility administrator of his findings and recommendations, and include the date of the oversight, the date of the report, and his signature. The report shall be retained at the facility for at least two years.

NOTE: Special diets may also be referred to as medical nutrition therapy or diet therapy.

H. A copy of a diet manual containing acceptable practices and standards for nutrition shall be kept current and on file in the dietary department.

I. Hydration. The facility shall make drinking water readily available to all residents. Direct care staff shall know which residents need help getting water or other fluids and drinking from a cup or glass. Direct care staff shall encourage and assist residents who do not have medical conditions with physician ordered fluid restrictions to drink water or other beverages frequently.

22 VAC 40-72-630. Medication management plan and reference materials.

A. The facility shall have, and keep current, a written plan for medication management. The facility's medication plan shall address procedures for administering medication and shall include:

1. Methods to ensure an understanding of the responsibilities associated with medication management;

2. Standard operating procedures and any general restrictions specific to the facility;

3. Methods to prevent the use of outdated, damaged or contaminated medications;

4. Methods to maintain an adequate supply of medication;

5. Methods for verifying that medication orders have been accurately transcribed to Medication Administration Records (MARs);

6. Methods for monitoring medication administration and the effective use of the MARs for documentation;

7. Methods to ensure that employees who are responsible for administering medications meet the qualification and training requirements of this section;

8. Methods to ensure that employees who are responsible for administering medications are adequately supervised;

9. A plan for proper disposal of medication; and

10. Identification of the employee responsible for routinely communicating the effectiveness of prescribed medications and any adverse reactions or suspected side effects to the prescribing physician.

B. The facility's written medication management plan and any subsequent changes shall be approved by the department.

C. In addition to the facility's written medication management plan, the facility shall maintain, as reference materials for medication aides, a current copy of "A Resource Guide for Medication Management for Persons Authorized Under the Drug Control Act," approved by the Virginia Board of Nursing, and at least one pharmacy reference book, drug guide or medication handbook for nurses that is no more than two

years old. Other information shall also be maintained to assist with safe administration of medication, such as pharmacy information sheets, product information from drug packages, or printed information from prescribing physicians.

22 VAC 40-72-640. Physician's order.

A. No medication, dietary supplement, diet, medical procedure or treatment shall be started, changed or discontinued by the facility without a valid order from the physician.

NOTE: Medications include prescription, over-the counter and sample medications.

NOTE: Whenever a resident is admitted to a hospital for treatment of any condition, the facility shall obtain new orders for all medications and treatments prior to or at the time of the resident's return to the facility. The facility shall ensure that the primary physician, if not the prescribing physician, is aware of all new medication orders.

B. The resident's record shall contain the physician's written order or a dated notation of the physician's oral order.

C. Physician orders, both written and oral, for administration of all prescription and over-the-counter medications and dietary supplements shall include the name of the resident, the date of the order, the name of the drug, route, dosage, strength, how often medication is to be given, and identify the diagnosis, condition, or specific indications for administering each drug.

D. Physician's oral orders shall:

1. Be charted by the individual who takes the order. That individual must be one of the following:

a. A licensed health care professional acting within the scope of his profession; or

b. An individual who has successfully completed the medication training program developed by the department and approved by the Board of Nursing.

2. Be reviewed and signed by a physician within 10 working days.

22 VAC 40-72-650. Storage of medications.

A. A medicine cabinet, container or compartment shall be used for storage of medications and dietary supplements prescribed for residents when such medications and dietary supplements are administered by the facility.

1. The storage area shall be locked.

2. Controlled substances must be kept under a double lock, e.g., a locked cabinet within a locked storage area or a locked container within a locked cabinet.

3. The individual responsible for medication administration shall keep the keys to the storage area on his person.

4. When in use, the storage area shall have adequate illumination in order to read container labels, but it shall remain darkened when closed.

5. The storage area shall not be located in the kitchen or bathroom, but in an area free of dampness or abnormal temperatures unless the medication requires refrigeration.

6. When required, medications shall be refrigerated.

a. It is permissible to store dietary supplements and foods and liquids used for medication administration in a refrigerator that is dedicated to medication storage, if the refrigerator is in a locked storage area.

b. When it is necessary to store medications in a refrigerator that is routinely used for food storage, the medications shall be stored together in a locked container in a clearly defined area.

B. A resident may be permitted to keep his own medication in a secure place in his room if the UAI has indicated that the resident is capable of self-administering medication. The medication and any dietary supplements shall be stored so that they are not accessible to other residents. This does not prohibit the facility from storing or administering all medication and dietary supplements

22 VAC 40-72-660. Qualifications, training, and supervision of staff administering medications.

When staff administers medications to residents, the following standards shall apply:

1. Each staff person who administers medication shall be authorized by § 54.1-3408 of the Virginia Drug Control Act. All staff responsible for medication administration shall:

a. Be licensed by the Commonwealth of Virginia to administer medications; or

b. (i) Have successfully completed one of the five requirements specified in 22 VAC 40-72-250 C 1 through 5 and (ii) have successfully completed the medication training program developed by the department and approved by the Board of Nursing.

EXCEPTION: Staff responsible for medication administration prior to (insert the effective date of these standards) who would otherwise be subject to completion of one of the five requirements specified in 22 VAC 40-72-250 C 1 through 5 do not have to meet any of the requirements listed in 22 VAC 40-72-250 C 1 through 5 in order to administer medication.

2. All staff who have met the requirements of subdivisions 1 b and c of this section shall be listed in the department's database for medication aides.

3. All staff who have successfully completed the medication training program approved by the Board of Nursing shall also successfully complete:

a. Annual in-service training provided by a licensed health care professional, acting within the scope of the requirements of his profession, on side effects of the medications prescribed to the residents in care and on recognizing and reporting adverse medication reactions.

b. The most current refresher course developed by the department that is based on the curriculum approved by

the Board of Nursing. The refresher course shall be completed every three years.

4. Staff who have successfully completed the medication training program approved by the Board of Nursing shall be supervised on-site on all shifts by:

a. A licensed health care professional, acting within the scope of the requirements of his profession;

b. The administrator who has successfully completed the medication training program approved by the Board of Nursing;

c. The designated assistant administrator who has successfully completed the medication training program approved by the Board of Nursing;

d. The manager as specified in this chapter who has successfully completed the medication training program approved by the Board of Nursing; or

e. The person in charge as specified in this chapter who has successfully completed the medication training program approved by the Board of Nursing.

22 VAC 40-72-670. Administration of medications and related provisions.

A. Drugs shall be administered to those residents who are dependent in medication administration as documented on the UAI.

B. All medications shall be removed from the pharmacy container by an authorized person and administered by the same authorized person. Pre-pouring is not permitted.

C. All medications shall be administered in accordance with the physician's instructions and consistent with the standards of practice outlined in the current "A Resource Guide for Medication Management for Persons Authorized Under the Drug Control Act," approved by the Virginia Board of Nursing.

D. All medications shall remain in the pharmacy issued container, with the legible prescription label or direction label attached, until administered.

E. Sample medications shall remain in the original packaging, labeled by a physician or pharmacist with the resident's name, the name of the medication, the strength, dosage, route and frequency of administration, until administered.

F. Over-the-counter medication shall remain in the original container, labeled with the resident's name, or in a pharmacy-issued container if unit dose packaging is used, until administered.

G. In the event of an adverse drug reaction or a medication error:

1. First aid shall be administered as directed by a physician, pharmacist or the Virginia Poison Control Center.

2. The resident's physician of record shall be notified as soon as possible.

3. The direct care staff person shall document in the resident's record actions taken.

H. The facility shall document on a medication administration record (MAR) all medications administered to residents, including over-the-counter medications, and dietary supplements. The MAR shall include:

1. Name of the resident;

2. Date prescribed;

3. Drug product name;

4. Strength of the drug;

5. Dosage;

6. Diagnosis, condition, or specific indications for administering the drug or supplement;

7. Route (for example, by mouth);

8. How often medication is to be taken;

9. Date and time given and initials of direct care staff administering the medication;

10. Dates the medication is discontinued or changed;

11. Any medication errors or omissions;

12. Significant adverse effects;

13. For PRN medications:

a. Symptoms for which medication was given;

b. Exact dosage given; and

c. Effectiveness; and

14. The name, signature and initials of all direct care staff administering medications.

I. The performance of all medical procedures and treatments ordered by a physician shall be documented and the documentation shall be retained in the resident's record.

J. The use of PRN (as needed) medications is prohibited, unless one or more of the following conditions exist:

1. The resident is capable of determining when the medication is needed;

2. Licensed health care professionals are responsible for medication administration and management; or

3. The facility has obtained from the resident's physician detailed written instructions or a staff person as allowed in 22 VAC 40-72-640 D has telephoned the doctor prior to administering the medication, explained the symptoms and received a documented oral order to assist the resident in self-administration. The physician's instructions shall include symptoms that might indicate the use of the medication, exact dosage, the exact timeframes the medication is to be given in a 24-hour period, and directions as to what to do if symptoms persist.

K. Medications ordered for PRN administration shall be available, properly labeled and properly stored at the facility.

L. An additional drug box called a stat-drug box may be prepared by a pharmacy to provide for initiating therapy prior to the receipt of ordered drugs from the pharmacy. A stat-drug box may be used in those facilities in which only those persons licensed to administer are administering drugs and shall be subject to the conditions specified in 18 VAC 110-20-550 of the regulations of the Virginia Board of Pharmacy.

NOTE: Stat-drug boxes may not be used in facilities in which medication aides administer medications. Medication aides hold a certificate, but are not licensed.

22 VAC 40-72-680. Medication review.

A. For each resident assessed for residential living care, except for those who self-administer all of their medications, a licensed health care professional, acting within the scope of the requirements of his profession, shall perform an annual review of all the medications of the resident.

B. For each resident assessed for assisted living care, a licensed health care professional, acting within the scope of the requirements of his profession, shall perform a review every six months of all the medications of the resident.

C. The medication review shall include both prescription and over-the-counter medications and supplements.

D. If deemed appropriate by the licensed health care professional, the review shall include observation of or interview with the resident.

E. The review shall include, but not be limited to, the following:

1. All medications that the resident is taking and medications that he could be taking if needed (PRNs).

2. An examination of the dosage, strength, route, how often, prescribed duration, and when the medication is taken.

3. Documentation of actual and consideration of potential interactions of drugs with one another.

4. Documentation of actual and consideration of potential interactions of drugs with foods or drinks.

5. Documentation of actual and consideration of potential negative affects of drugs resulting from a resident's medical condition other than the one the drug is treating.

6. Consideration of whether PRNs, if any, are still needed and if clarification regarding use is necessary.

7. Consideration of whether the resident needs additional monitoring or testing.

8. Documentation of actual and consideration of potential adverse effects or unwanted side effects of specific medications.

9. Identification of that which may be questionable, such as (i) similar medications being taken, (ii) different medications being used to treat the same condition, (iii) what seems an excessive number of medications, and (iv) what seems an exceptionally high drug dosage.

F. Any concerns or problems or potential problems shall be reported to the resident's attending physician and to the facility administrator.

G. The results of the review shall be documented, signed and dated by the health care professional, and retained in the resident's record. The health care professional shall also document any reports made as required in subsection F of this section. Action taken in response to the report shall also be documented. The documentation required by this subsection shall be retained in the resident's record.

22 VAC 40-72-690. Oxygen therapy.

When oxygen therapy is provided, the following safety precautions shall be met and maintained:

1. The facility shall have a valid physician's order that includes the following:

a. The oxygen source (such as compressed gas or concentrators);

b. The delivery device (such as nasal cannula, reservoir nasal cannulas or masks); and

c. The flow rate deemed therapeutic for the resident.

2. The facility shall post "No Smoking-Oxygen in Use" signs and enforce the smoking prohibition in any room of a building where oxygen is in use.

3. The facility shall ensure that only oxygen from a portable source shall be used by residents when they are outside their rooms. The use of long plastic tether lines to the source of oxygen is not permitted.

4. The facility shall make available to employees the emergency numbers to contact the resident's physician and the oxygen vendor for emergency service or replacement.

5. The facility shall demonstrate that all direct care staff responsible for assisting residents who use oxygen supplies have had training or instruction in the use and maintenance of resident-specific equipment.

22 VAC 40-72-700. Restraints.

A. Restraints shall not be used for purposes of discipline or convenience. Restraints may only be used to treat a resident's medical symptoms or symptoms from mental illness or mental retardation.

B. The facility may only impose physical restraints when the resident's medical symptoms or symptoms from mental illness or mental retardation warrant the use of restraints, if the restraint is:

1. Necessary to ensure the physical safety of the resident or others;

2. Imposed in accordance with a physician's written order that specifies the condition, circumstances and duration under which the restraint is to be used, except in emergency circumstances until such an order can reasonably be obtained; and

3. Not ordered on a standing, blanket, or "as needed" (PRN) basis.

C. Whenever physical restraints are used, the following conditions shall be met:

1. A restraint shall be used only to the minimum extent necessary to protect the resident or others;

2. Restraints shall only be applied by direct care staff who have received training in their use as specified by subdivision 2 of 22 VAC 40-72-310;

3. The facility shall closely monitor the resident's condition, which includes checking on the resident at least every 30 minutes;

4. The facility shall assist the resident as often as necessary, but no less than 10 minutes every hour, for his hydration, safety, comfort, range of motion, exercise, elimination, and other needs;

5. The facility shall release the resident from the restraint as quickly as possible;

6. Direct care staff shall keep a record of restraint usage, outcomes, checks, any assistance required in subdivision 4 of this subsection, and note any unusual occurrences or problems;

7. In nonemergencies (as defined in 22 VAC 40-72-10):

a. Restraints shall be used as a last resort and only if the facility, after completing, implementing and evaluating the resident's comprehensive assessment and service plan, determines and documents that less restrictive means have failed;

b. Restraints shall be used in accordance with the resident's service plan, which documents the need for the restraint and includes a schedule or plan of rehabilitation training enabling the progressive removal or the progressive use of less restrictive restraints when appropriate;

c. The facility shall explain the use of the restraint and potential negative outcomes to the resident or his legal representative and the resident's right to refuse the restraint; and shall obtain the written consent of the resident or his legal representative;

d. Restraints shall be applied so as to cause no physical injury and the least possible discomfort; and

e. The facility shall notify the resident's legal representative or designated contact person as soon as practicable, but no later than 24 hours after the initial administration of a nonemergency restraint. The facility shall keep the legal representative or designated contact person informed about any changes in restraint usage. A notation shall be made in the resident's record of such notice, including the date, time, caller and person notified.

8. In emergencies (as defined in 22 VAC 40-72-10):

a. Restraints shall not be used unless they are necessary to alleviate an unanticipated immediate and serious danger to the resident or other individuals in the facility;

b. An oral or written order shall be obtained from a physician within one hour of administration of the emergency restraint and the order shall be documented;

c. In the case of an oral order, a written order shall be obtained from the physician as soon as possible;

d. The resident shall be within sight and sound of direct care staff at all times;

e. If the emergency restraint is necessary for longer than two hours, the resident shall be transferred to a medical or psychiatric inpatient facility or monitored in the facility by a mental health crisis team until his condition has stabilized to the point that the attending physician documents that restraints are not necessary; and

f. The facility shall notify the resident's legal representative or designated contact person as soon as practicable, but no later than 12 hours after administration of an emergency restraint. A notation shall be made in the resident's record of such notice, including the date, time, caller and person notified.

D. The use of chemical restraints is prohibited.

22 VAC 40-72-710. Do Not Resuscitate (DNR) Orders.

A. Do Not Resuscitate Orders for withholding cardiopulmonary resuscitation from an individual in the event of cardiac or respiratory arrest shall only be carried out in a licensed assisted living facility when:

1. A valid written order has been issued by the resident's attending physician;

2. The written order is included in the individualized service plan; and

3. There is an employee with a current certification in cardiopulmonary resuscitation (CPR) (See provision from § 63.2-1807 of the Code of Virginia in this section) or a licensed nurse available to implement the order.

B. Durable DNR Orders shall not authorize the withholding of other medical interventions, such as intravenous fluids, oxygen or other therapies deemed necessary to provide comfort care or to alleviate pain.

C. Section 63.2-1807 of the Code of Virginia states that the owners or operators of any assisted living facility may provide that their employees who are certified in CPR shall not be required to resuscitate any resident for whom a valid written order not to resuscitate in the event of cardiac or respiratory arrest has been issued by the resident's attending physician and has been included in the resident's individualized service plan.

PART VII.
RESIDENT ACCOMMODATIONS AND RELATED PROVISIONS.

22 VAC 40-72-720. Personal possessions.

A. Each resident shall be permitted to keep reasonable personal property in his possession at a facility in order to maintain individuality and personal dignity. These possessions may include, but are not limited to:

1. Clothing. A facility shall ensure that each resident has his own clothing.

a. The use of a common clothing pool is prohibited.

b. If necessary, resident's clothing shall be inconspicuously marked with his name to avoid getting mixed with others.

c. Residents shall be allowed and encouraged to select their daily clothing and wear clothing to suit their activities and appropriate to weather conditions.

2. Personal care items. Each resident shall have his own personal care items. Toilet paper and soap shall be provided for residents at all commonly shared face/hand washing sinks and bathrooms at no additional charge.

B. Each facility shall develop and implement a written policy regarding procedures to be followed when a resident's clothing or other personal possession, such as jewelry, television, radio or other durable property, is reported missing. Attempts shall be made to determine the reason for the loss and any reasonable actions shall be taken to recover the item and to prevent or discourage future losses. Documentation shall be maintained regarding all items that were reported missing and resulting actions that were taken.

22 VAC 40-72-730. Resident rooms.

A. The resident shall be encouraged to furnish or decorate his room as space and safety considerations permit and in accordance with this chapter.

B. Bedrooms shall contain the following items:

1. A separate bed with comfortable mattress, springs and pillow for each resident. Provisions for a double bed for a married couple shall be optional;

2. A table or its equivalent accessible to each bed;

3. An operable bed lamp or bedside light accessible to each resident;

4. A sturdy chair for each resident (wheelchairs do not meet the intent of this standard);

5. Drawer space for clothing and other personal items. If more than one resident occupies a room, ample drawer space shall be assigned to each individual;

6. At least one mirror; and

7. Window coverings for privacy.

C. Adequate and accessible closet or wardrobe space shall be provided for each resident.

D. The facility shall have sufficient bed and bath linens in good repair so that residents always have clean:

1. Sheets;

2. Pillowcases;

3. Blankets;

4. Bedspreads;

5. Towels;

6. Washcloths; and

7. Waterproof mattress covers when needed.

22 VAC 40-72-740. Living room or multipurpose room.

A. Sitting rooms or recreation areas or both shall be equipped with:

1. Comfortable chairs (e.g., overstuffed, straight-backed, and rockers);

2. Tables;

3. Lamps;

4. Television (if not available in other areas of the facility);

5. Radio (if not available in other areas of the facility);

6. Current newspaper; and

7. Materials appropriate for the implementation of the planned activity program, such as books or games.

B. Space other than sleeping areas shall be provided for residents for sitting, for visiting with one another or with guests, for social and recreational activities, and for dining. These areas may be used interchangeably.

22 VAC 40-72-750. Dining areas.

Dining areas shall have a sufficient number of sturdy dining tables and chairs to serve all residents, either all at one time or in reasonable shifts.

22 VAC 40-72-760. Laundry and linens.

A. Residents' clothing shall be kept clean and in good repair.

B. Table coverings and napkins shall be clean at all times.

C. Bed and bath linens shall be changed at least every seven days and more often if needed. In facilities with common bathing areas, bath linens shall be changed after each use.

D. Table and kitchen linens shall be laundered separately from other washable goods.

E. When bed, bath, table and kitchen linens are washed, the water shall be above 140°F or the dryer shall heat the linens above 140°F as verified by the manufacturer or a sanitizing agent shall be used according to the manufacturer's instructions.

22 VAC 40-72-770. Transportation.

The resident shall be assisted in making arrangements for transportation as necessary.

22 VAC 40-72-780. Incoming and outgoing mail.

A. Incoming and outgoing mail shall not be censored.

B. Incoming mail shall be delivered promptly.

C. Mail shall not be opened by employees or volunteers except upon request of the resident or written request of the legal representative.

22 VAC 40-72-790. Telephones.

A. Each building shall have at least one operable, nonpay telephone easily accessible to employees. There shall be additional telephones or extensions as may be needed to summon help in an emergency.

B. The resident shall have reasonable access to a nonpay telephone on the premises.

C. Privacy shall be provided for residents to use a telephone.

22 VAC 40-72-800. Smoking.

A. Smoking by residents, employees, volunteers, and visitors shall be done only in areas designated by the facility and approved by the State Fire Marshal or local fire official. Smoking shall not be allowed in a kitchen or food preparation areas.

NOTE: A facility may prohibit smoking on its premises.

B. All designated smoking areas shall be provided with suitable ashtrays.

C. Residents shall not be permitted to smoke in or on their beds.

D. All common areas shall have smoke-free areas designated for nonsmokers.

22 VAC 40-72-810. Resident councils.

A. The facility shall permit and encourage the formation of a resident council by residents, and shall assist the residents in its establishment.

B. The resident council shall be composed of residents of the facility and the council may extend membership to family members, advocates, friends, and others. Residents shall be encouraged, but shall not be compelled to attend meetings.

C. The facility shall assist residents in maintaining the resident council, including, but not limited to:

1. Scheduling regular meetings;

2. Providing space for meetings;

3. Posting notice for meetings;

4. Providing assistance in attending meetings for those residents who request it; and

5. Preparing written reports of meetings for dissemination to all residents.

D. In order to promote a free exchange of ideas, at least part of each meeting shall be allowed to be conducted without the presence of any facility personnel.

E. The purposes of the resident council shall be to:

1. Work with the administration in improving the quality of life for all residents by enriching the activity program;

2. Discuss the services offered by the facility and make recommendations for resolution of identified problems or concerns;

3. Review the facility's policies and procedures, and recommend changes or additions; and

4. Perform other functions as determined by the council.

F. If there is no council, the facility shall annually remind residents that they may establish a resident council and that the facility would assist in its formation and maintenance. The general purpose of the council shall also be explained at this time.

22 VAC 40-72-820. Pets living in the assisted living facility.

If an assisted living facility allows pets to live on the premises, the facility shall:

1. Develop, implement and disclose to potential and current residents policies regarding:

a. The types of pets that are permitted in the assisted living facility; and

b. The conditions under which pets may be in the assisted living facility.

2. Maintain documentation of disclosure of pet policies in the resident's record.

3. Ensure that before being allowed to live on the premises, the animal shall have had all recommended or required immunizations and shall be certified by a licensed veterinarian to be free of diseases transmittable to humans.

4. Ensure that animals living on the assisted living facility premises:

a. Have regular examinations and immunizations, appropriate for the species, by a licensed veterinarian.

b. Are restricted from central food preparation areas.

5. Ensure that common household pets, exotic pets, animals, birds, insects, reptiles, and fish are well treated and cared for in compliance with state regulations and local ordinances.

6. Ensure that any resident's rights, preferences, and medical needs are not compromised by the presence of an animal.

7. Ensure any animal living on the premises has a suitable temperament, is healthy, and otherwise poses no significant health or safety risks to residents, employees, volunteers, or visitors.

22 VAC 40-72-830. Pets visiting the assisted living facility.

If an assisted living facility allows pets to visit the premises, the facility shall:

1. Ensure that any pet or animal present at the home, indoors or outdoors, is in good health and shows no evidence of carrying any disease;

2. Ensure that any resident's rights, preferences, and medical needs are not compromised by the presence of an animal; and

3. Ensure any animal is well-treated while visiting on the premises, has a suitable temperament and otherwise poses no significant health or safety risks to residents, employees, volunteers, or visitors.

PART VIII.
BUILDINGS AND GROUNDS.

22 VAC 40-72-840. General requirements.

A. Buildings licensed for ambulatory residents or nonambulatory residents shall be classified by and meet the specifications for the proper use group as required by the Virginia Statewide Building Code (13 VAC 5-63).

B. A certificate of occupancy shall be obtained as evidence of compliance with the applicable edition of the Virginia Statewide Building Code.

C. Before construction begins or contracts are awarded for any new construction, remodeling, or alterations, plans shall be submitted to the department for review.

D. Doors and windows.

1. All doors shall open and close readily and effectively.

2. Any doorway or window that is used for ventilation shall be effectively screened.

E. There shall be enclosed walkways between residents' rooms and dining and sitting areas that are adequately lighted, heated, and ventilated.

F. There shall be an ample supply of hot and cold water from an approved source available to the residents at all times.

G. Hot water at taps available to residents shall be maintained within a range of 105°F to 120°F.

H. Where there is an outdoor area accessible to residents, such as a porch or lawn, it shall be equipped with furniture in season.

I. Cleaning supplies and other hazardous materials shall be stored in a locked area. This safeguard shall be optional in an independent living environment.

J. Each facility shall develop and implement a written policy regarding weapons on the premises of the facility that will ensure the safety and well-being of all residents and staff. Any facility permitting any type of firearm on the premises must include procedures to ensure that ammunitions and firearms are stored separately and in locked locations.

22 VAC 40-72-850. Maintenance of buildings and grounds.

A. The interior and exterior of all buildings shall be maintained in good repair.

B. The interior and exterior of all buildings shall be kept clean and shall be free of rubbish.

C. All buildings shall be well-ventilated and free from foul, stale and musty odors.

D. Adequate provisions for the collection and legal disposal of garbage, ashes and waste material shall be made.

1. Covered, vermin-proof, watertight containers shall be used.

2. Containers shall be emptied and cleaned at least once a week.

E. Buildings shall be kept free of flies, roaches, rats and other vermin. The grounds shall be kept free of their breeding places.

F. All furnishings and equipment, including sinks, toilets, bathtubs, and showers, shall be kept clean and in good repair.

G. Heating, cooling, and lighting features required by 22 VAC 40-72-860 and 22 VAC 40-72-870 shall be kept in safe, operable condition.

H. All inside and outside steps, stairways and ramps shall have nonslip surfaces.

I. Grounds shall be properly maintained to include mowing of grass and removal of snow and ice.

J. Handrails shall be provided on all stairways, ramps, elevators, and at changes of floor level.

K. Elevators, where used, shall be kept in good running condition and shall be inspected at least annually. The signed and dated certificate of inspection issued by the local authority, by the insurance company, or by the elevator company shall be evidence of such inspection.

L. The facility shall develop and implement a schedule of inspection and preventive maintenance and a schedule for inspection and cleaning and housekeeping tasks to ensure that the requirements of this section are met.

22 VAC 40-72-860. Heating, ventilation, and cooling.

A. Rooms extending below ground level shall not be used for residents unless they are dry and well-ventilated. Bedrooms below ground level shall have required window space and ceiling height.

B. At least one movable thermometer shall be available in each building for measuring temperatures in individual rooms that do not have a fixed thermostat that shows the temperature in the room.

C. Heat.

1. Heat shall be supplied from a central heating plant or by an approved electrical heating system.

2. Provided their installation or operation has been approved by the state or local fire authorities, space heaters, such as but not limited to, wood burning stoves, coal burning stoves, and oil heaters, or portable heating units either vented or unvented, may be used only to

provide or supplement heat in the event of a power failure or similar emergency. These appliances shall be used in accordance with the manufacturer's instructions.

3. When outside temperatures are below 68°F, a temperature of at least 72°F shall be maintained in all areas used by residents during hours when residents are normally awake. During night hours, when residents are asleep, a temperature of at least 68°F shall be maintained. This standard applies unless otherwise mandated by federal or state authorities.

D. Cooling devices.

1. Cooling devices shall be made available in those areas of buildings used by residents when inside temperatures exceed 82°F.

2. Cooling devices shall be placed to minimize drafts.

3. Any electric fans shall be screened and placed for the protection of the residents.

4. When air conditioners are not provided in all areas used by residents, the facility shall develop and implement a plan to protect residents from heat-related illnesses.

5. As of (insert six months after the effective date of these regulations), the largest common area used by residents shall have air conditioning equipment. The temperature in this common area shall not exceed 82°F.

6. As of (insert the effective date of these regulations), in all buildings approved for new construction or change in use group, or in additions approved for new construction, the facility shall provide an air conditioning system for all areas used by residents, including residents' bedrooms and common areas. Temperatures in all areas used by residents shall not exceed 82°F.

7. As of six years after the effective of these regulations, the facility shall provide in all buildings an air conditioning system for all areas used by residents, including residents' bedrooms and common areas. Temperatures in all areas used by residents shall not exceed 82°F.

a. The facility shall develop an implementation plan, which includes the type of system to be utilized, equipment needed, and costs and funding resources for equipment, installation and operation.

b. The implementation plan shall be filed with the department's licensing inspector by (insert two years after the effective date of these standards).

22 VAC 40-72-870. Lighting and lighting fixtures.

A. Artificial lighting shall be by electricity.

B. All areas shall be well lighted for the safety and comfort of the residents according to the nature of activities.

C. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

D. Hallways, stairwells, foyers, doorways, and exits utilized by residents shall be kept well-lighted at all times residents are present in the building.

E. Additional lighting, as necessary to provide and ensure presence of contrast, shall be available for immediate use in areas that may present safety hazards, such as, but not limited to, stairways, doorways, passageways, changes in floor level, kitchen, bathrooms and basements.

F. Glare shall be kept at a minimum in rooms used by residents. When necessary to reduce glare, coverings shall be used for windows and lights.

G. If used, fluorescent lights shall be replaced if they flicker or make noise.

22 VAC 40-72-880. Sleeping areas.

Resident sleeping quarters shall provide:

1. For not less than 450 cubic feet of air space per resident;

2. For square footage as provided in this subdivision:

a. As of February 1, 1996, all buildings approved for construction or change in use group, as referenced in the Virginia Statewide Building Code (13 VAC 5-63), shall have not less than 100 square feet of floor area in bedrooms accommodating one resident; otherwise not less than 80 square feet of floor area in bedrooms accommodating one resident shall be required.

b. As of February 1, 1996, all buildings approved for construction or change in use group, as referenced in the Virginia Uniform Statewide Building Code, shall have not less than 80 square feet of floor area per person in bedrooms accommodating two or more residents; otherwise not less than 60 square feet of floor area per person in bedrooms accommodating two or more persons shall be required;

3. For ceilings at least 7-1/2 feet in height;

4. For window areas as provided in this subdivision:

a. There shall be at least eight square feet of glazed window area above ground level in a room housing one person; and

b. There shall be at least six square feet of glazed window area above ground level per person in rooms occupied by two or more persons;

5. For occupancy as provided in this subdivision:

a. As of (insert the effective date of these regulations), in all buildings approved for new construction or change in use group, or in additions approved for new construction, there shall be no more than two residents residing in a bedroom.

b. Unless the provisions of subdivision a of this subdivision apply, there shall be no more than four residents residing in a bedroom;

6. For at least three feet of space between sides and ends of beds that are placed in the same room;

7. That no bedroom shall be used as a corridor to any other room;

8. That all beds shall be placed only in bedrooms; and

9. That household members and employees shall not share bedrooms with residents.

22 VAC 40-72-890. Toilet, face/hand washing and bathing facilities.

A. In determining the number of toilets, face/hand washing sinks, bathtubs or showers required, the total number of persons residing on the premises shall be considered. Unless there are separate facilities for household members or employees, they shall be counted in determining the required number of fixtures, except that for bathtubs or showers, the employee count shall include only live-in employees.

1. As of (insert the effective date of these standards), in all buildings or parts thereof approved for new construction or change in use group, on each floor where there are residents' bedrooms, there shall be:

a. At least one toilet for each four persons, or portion thereof;

b. At least one face/hand washing sink for each four persons, or portion thereof;

c. At least one bathtub or shower for each seven persons, or portion thereof;

d. Toilets, face/hand washing sinks and bathtubs or showers in separate rooms for men and women where more than four persons live on a floor. Bathrooms equipped to accommodate more than one person at a time shall be labeled by gender. Gender designation of bathrooms shall remain constant during the course of a day.

2. Unless the provisions of subdivision 1 of this subsection apply, on each floor where there are residents' bedrooms, there shall be:

a. At least one toilet for each seven persons, or portion thereof;

b. At least one face/hand washing sink for each seven persons, or portion thereof;

c. At least one bathtub or shower for each 10 persons, or portion thereof;

d. Toilets, face/hand washing sinks and bathtubs or showers in separate rooms for men and women where more than seven persons live on a floor. Bathrooms equipped to accommodate more than one person at a time shall be labeled by gender. Gender designation of bathrooms shall remain constant during the course of a day.

3. As of (insert the effective date of these standards), in all buildings or parts thereof approved for new construction or change in use group, when residents' rooms are located on the same floor as the main living or dining area, in addition to the requirements of subdivision 1 of this section, there shall be at least one more toilet and face/hand washing sink, which is available for common use. The provisions of subdivision 4 c of this subsection shall also apply.

4. On floors used by residents where there are no residents' bedrooms there shall be:

a. At least one toilet;

b. At least one face/hand washing sink;

c. Toilets and face/hand washing sinks in separate rooms for men and women in facilities where there are 10 or more residents. Bathrooms equipped to accommodate more than one person at a time shall be designated by gender. Gender designation of bathrooms must remain constant during the course of a day.

B. Bathrooms shall provide for privacy for such activities as bathing, toileting, and dressing.

C. There shall be ventilation to the outside in order to eliminate foul odors.

D. The following sturdy safeguards shall be provided:

1. Handrails by bathtubs;

2. Grab bars by toilets; and

3. Handrails inside and stools available to stall showers.

EXCEPTION: These safeguards shall be optional for individuals with independent living status.

E. Bathtubs and showers shall have nonskid surfacing or strips.

F. The face/hand washing sink shall be in the same room as the toilet or in an adjacent private area that is not part of a common use area of the assisted living facility.

G. The assisted living facility shall provide private or common-use toilet, face/hand washing and bathing facilities to meet the needs of each resident.

22 VAC 40-72-900. Toilet and face/hand washing sink supplies.

A. The facility shall have an adequate supply of toilet tissue and soap. Toilet tissue shall be accessible to each commode and soap shall be accessible to each face/hand washing sink.

B. Common face/hand washing sinks shall have paper towels or an air dryer, and liquid soap for hand washing.

22 VAC 40-72-910. Provisions for signaling/call systems.

A. All assisted living facilities shall have a signaling device that is easily accessible to the resident in his bedroom or in a connecting bathroom that alerts the direct care staff that the resident needs assistance.

B. In facilities licensed to care for 20 or more residents under one roof, there shall be a signaling device that terminates at a central location that is continuously staffed and permits employees to determine the origin of the signal or is audible and visible in a manner that permits employees to determine the origin of the signal.

C. In facilities licensed to care for 19 or fewer residents, if the signaling device does not permit employees to determine the origin of the signal as specified in subsection B of this section, direct care staff shall make rounds at least once each hour to

monitor for emergencies or other unanticipated resident needs. These rounds shall begin when the majority of the residents have gone to bed each evening and shall terminate when the majority of the residents have arisen each morning, and shall be documented as follows:

1. A written log shall be maintained showing the date and time rounds were made and the signature of the direct care staff member who made rounds.

2. Logs for the past three months shall be retained.

22 VAC 40-72-920. Fire safety: compliance with state regulations and local fire ordinances.

A. An assisted living facility shall comply with the Virginia Statewide Fire Prevention Code (13 VAC 5-51) as determined by at least an annual inspection by the appropriate fire official. Reports of the annual inspections shall be retained at the facility for at least two years.

B. An assisted living facility shall comply with any local fire ordinance.

PART IX.
EMERGENCY PREPAREDNESS.

22 VAC 40-72-930. Emergency preparedness and response plan.

A. The facility shall develop, in accordance with a department-approved manual, a written emergency preparedness and response plan that shall address:

1. Documentation of contact with the local emergency coordinator to determine local disaster risks and communitywide plans to address different disasters and emergency situations.

2. Analysis of the facility's potential hazards, including severe weather, fire, loss of utilities, flooding, work place violence or terrorism, severe injuries, or other emergencies that would disrupt the normal course of service delivery.

3. Written emergency management policies outlining specific responsibilities for provision of:

a. Administrative direction and management of response activities;

b. Coordination of logistics during the emergency;

c. Communications;

d. Life safety of residents, employees, volunteers, and visitors;

e. Property protection;

f. Continued provision of services to residents;

g. Community outreach; and

h. Recovery and restoration.

4. Written emergency response procedures for assessing the situation; protecting residents, employees, volunteers, visitors, equipment, medications, and vital records; and restoring services. Emergency procedures shall address:

a. Alerting emergency personnel and employees;

b. Warning and notification of residents, including sounding of alarms when appropriate;

c. Providing emergency access to secure areas and opening locked doors;

d. Conducting evacuations or sheltering in place, as appropriate, and accounting for all residents;

e. Locating and shutting off utilities when necessary;

f. Operating the emergency generator, and if available on-site, testing it periodically;

g. Communicating with employees and community emergency responders during the emergency; and

h. Conducting relocations to emergency shelters or alternative sites when necessary and accounting for all residents.

5. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, memoranda of understanding with relocation sites, and list of major resources such as suppliers of emergency equipment.

6. Written procedures for quarterly testing of the implementation of the plan. The testing shall be divided evenly among shifts and the facility shall maintain a record of the dates of the tests for two years.

7. Written procedures for an evaluation immediately following each quarterly test of the plan in order to determine the effectiveness of the test. The licensee or administrator shall immediately correct any problems identified in the evaluation.

B. Employees and volunteers shall be knowledgeable in and prepared to implement the emergency preparedness plan in the event of an emergency.

C. The provider shall develop and implement an orientation and quarterly review on emergency preparedness and response for all employees, residents, and volunteers. The orientation and review shall cover responsibilities for:

1. Alerting emergency personnel and sounding alarms;

2. Implementing evacuation, shelter in place, and relocation procedures;

3. Using, maintaining, and operating emergency equipment;

4. Accessing emergency medical information, equipment, and medications for residents;

5. Locating and shutting off utilities; and

6. Utilizing community support services.

D. The provider shall review the emergency preparedness plan annually or more often as needed and make necessary revisions. Such revisions shall be communicated to employees, residents, and volunteers and incorporated into

the orientation and quarterly review for employees, residents, and volunteers.

E. In the event of a disaster, fire, emergency or any other condition that may jeopardize the health, safety and welfare of residents, the provider shall take appropriate action to protect the health, safety and welfare of the residents and take appropriate actions to remedy the conditions as soon as possible.

F. After the disaster/emergency is stabilized, the provider shall:

1. Notify family members and legal representatives; and

2. Report the disaster/emergency to the licensing office by the next working day as specified in 22 VAC 40-72-100.

22 VAC 40-72-940. Emergency evacuation plan.

A. Assisted living facilities shall have a written plan for emergency building evacuation that is to be followed in the event of a fire or other emergency that requires evacuation. The plan shall be approved by the appropriate fire official.

B. An emergency evacuation drawing shall be posted in a conspicuous place on each floor of each building used by residents. The drawing shall show primary and secondary escape routes, areas of refuge, assembly areas, telephones, fire alarm boxes, and fire extinguishers, as appropriate.

C. The telephone numbers for the fire department, rescue squad or ambulance, and police shall be posted by each telephone shown on the evacuation plan.

NOTE: In assisted living facilities where all outgoing telephone calls must be placed through a central switchboard located on the premises, this information may be posted by the switchboard rather than by each telephone, providing this switchboard is manned 24 hours each day.

D. Employees and volunteers shall be fully informed of the approved evacuation plan, including their duties, and the location and operation of fire extinguishers, fire alarm boxes, and any other available emergency equipment.

22 VAC 40-72-950. Evacuation drills.

A. At least one evacuation drill shall be held each month for the staff on duty and all residents who are in the building at the time of the drill to practice meeting the requirements of the approved emergency evacuation plan. During a three-month period:

1. At least one evacuation drill shall be held between the hours of 7 a.m. and 3 p.m.;

2. At least one evacuation drill shall be held between the hours of 3 p.m. and 11 p.m.; and

3. At least one evacuation drill shall be held between the hours of 11 p.m. and 7 a.m.

B. Additional evacuation drills may be held at the discretion of the administrator or licensing inspector and must be held when there is any reason to question whether all residents can meet the requirements of the approved emergency evacuation plan.

C. Each required drill shall be unannounced.

D. Immediately following each required evacuation drill, there shall be an evaluation of the drill by the staff in order to determine the effectiveness of the drill. The licensee or administrator shall immediately correct any problems identified in the evaluation.

E. A record of the required evacuation drills shall be kept in the facility for two years. Such record shall include:

1. The date and time of the drill;

2. The number of employees participating;

3. The number of residents participating;

4. The names of any residents who were present in the facility who did not take part in the drill, and the reasons;

5. The time it took to complete the drill;

6. Weather conditions; and

7. Problems encountered, if any.

22 VAC 40-72-960. Emergency equipment and supplies.

A. A complete first aid kit shall be on hand at the facility, located in a designated place that is easily accessible to employees but not to residents. The kit shall include, but not be limited to, the following items:

1. Activated charcoal (use only if instructed by physician or Poison Control Center);

2. Adhesive tape;

3. Antiseptic ointment;

4. Band-aids (assorted sizes);

5. Blankets (disposable or other);

6. Disposable single use breathing barriers/shields for use with rescue breathing or CPR (CPR mask or other type);

7. Cold pack;

8. Disposable single use waterproof gloves;

9. Gauze pads and roller gauze (assorted sizes);

10. Hand cleaner (e.g., waterless hand sanitizer or antiseptic towelettes);

11. Plastic bags;

12. Scissors;

13. Small flashlight and extra batteries;

14. Syrup of ipecac (use only if instructed by physician or Poison Control Center);

15. Thermometer;

16. Triangular bandages;

17. Tweezers; and

18. The first aid instructional manual.

B. In facilities that have a motor vehicle that is used to transport residents, there shall be a first aid kit on the vehicle, located in a designated place that is accessible to employees but not residents, that includes items as specified in subsection A of this section.

C. First aid kits shall be checked at least quarterly to assure that all items are present and items with expiration dates are replaced as necessary.

D. Each facility with six or more residents shall be able to connect by July 1, 2007, to a temporary emergency electrical power source for the provision of electricity to provide the services listed below in the event of an emergency that disrupts electrical power to the facility. The installation of the emergency power source shall be in compliance with the Virginia Statewide Building Code, 13 VAC 5-63.

1. The emergency electrical power shall be sufficient to provide the following services:

a. Heating and cooling as required by 22 VAC 40-72-860 in an area that provides no less than 40 square feet of floor area per resident;

b. Lighting as required by 22 VAC 40-72-870 in an area that provides no less than 40 square feet of floor area per resident;

c. Refrigeration adequate to preserve food and medications that require refrigeration; and

d. Operation of any necessary medical equipment.

2. The provision of emergency electrical power may be supplied by:

a. An emergency generator available on-site; or

b. A written contractual agreement with a company that will provide an emergency generator within four hours of notification.

E. The following emergency lighting shall also be available at all times:

1. Flashlights or battery lanterns with one light for each employee directly responsible for resident care who is on duty between 6 p.m. and 6 a.m.

2. One operable flashlight or battery lantern for each bedroom used by residents and for the living and dining area unless there is a provision for emergency lighting in the adjoining hallways.

3. Open flame lighting is prohibited.

F. There shall be an alternative form of communication in addition to the telephone such as a cell phone, two-way radio, or ham radio.

G. The facility shall ensure the availability of a 96-hour supply of emergency food and drinking water, emergency generator fuel, and oxygen for residents using oxygen.

22 VAC 40-72-970. Plan for resident emergencies and practice exercise.

A. Assisted living facilities shall have a plan for resident emergencies that includes:

1. Procedures for handling medical emergencies including identifying the employee responsible for (i) calling the rescue squad, ambulance service, or resident's physician and (ii) providing first aid and CPR, if appropriate.

2. Procedures for handling mental health emergencies such as, but not limited to, catastrophic reaction or the need for a temporary detention order.

3. Procedures for making pertinent medical information and history available to the rescue squad and hospital, including but not limited to information on medications and any advance directives.

4. Procedures to be followed in the event that a resident is missing, including but not limited to (i) involvement of facility employees, appropriate law-enforcement agency, and others as needed; (ii) areas to be searched; (iii) expectations upon locating the resident; and (iv) documentation of the event.

5. Procedures for notifying the resident's family, legal representative, designated contact person, and any responsible social agency.

6. Procedures for notifying the licensing office as specified in 22 VAC 40-72-100.

B. At least once every six months, all employees on each shift shall participate in a exercise in which the procedures for resident emergencies are practiced. Documentation of each exercise shall be maintained in the facility for at least two years.

C. The plan for resident emergencies shall be readily available to all employees.

PART X.
ADDITIONAL REQUIREMENTS FOR FACILITIES THAT CARE FOR ADULTS WITH SERIOUS COGNITIVE IMPAIRMENTS WHO CANNOT RECOGNIZE DANGER OR PROTECT THEIR OWN SAFETY AND WELFARE.

Article1.
Subjectivity.

22 VAC 40-72-980. Subjectivity.

All facilities that care for residents with serious cognitive impairments due to a primary psychiatric diagnosis of dementia who cannot recognize danger or protect their own safety and welfare shall be subject to either Article 2 (22 VAC 40-72-990 et seq.) or Article 3 (22 VAC 40-72-1060 et seq.) of this part. All facilities that care for residents with serious cognitive impairments due to any other diagnosis who cannot recognize danger or protect their own safety and welfare shall be subject to Article 2 of this part.

NOTE: Serious cognitive impairment is defined in 22 VAC 40-72-10.

Article 2.
Mixed Population.

22 VAC 40-72-990. Applicability.

The requirements in this article apply when there is a mixed population consisting of any combination of (i) residents who have serious cognitive impairments due to a primary psychiatric diagnosis of dementia who are unable to recognize danger or protect their own safety and welfare and who are not in a special care unit as provided for in Article 3 (22 VAC 40-72-1060 et seq.) of this part; (ii) residents who have serious cognitive impairments due to any other diagnosis who cannot recognize danger or protect their own safety and welfare; and (iii) other residents. The requirements in this article also apply when all the residents have serious cognitive impairments due to any diagnosis other than a primary psychiatric diagnosis of dementia and cannot recognize danger or protect their own safety and welfare. Except for special care units covered by Article 3 of this part, these requirements apply to the entire facility unless specified otherwise.

EXCEPTION: The requirements in this article do not apply when facilities are licensed for 10 or fewer residents if no more than three of the residents have serious cognitive impairments, when the residents cannot recognize danger or protect their own safety and welfare. Each prospective resident or his legal representative shall be notified of this exception prior to admission.

22 VAC 40-72-1000. Staffing.

A. When residents are present, there shall be at least two direct care staff members awake and on duty at all times in each building who shall be responsible for the care and supervision of the residents.

B. During trips away from the facility, there shall be sufficient direct care staff to provide sight and sound supervision to all residents who cannot recognize danger or protect their own safety and welfare.

22 VAC 40-72-1010. Employee training.

A. Commencing immediately upon employment and within three months, the administrator shall attend 12 hours of training in cognitive impairment that meets the requirements of subsection C of this section. This training is counted toward the annual training requirement for the first year. Previous training that meets the requirements of subsection C of this section and was completed in the year prior to employment is transferable if there is documentation of the training. The documented previous training is counted toward the required 12 hours but not toward the annual training requirement.

B. Commencing immediately upon employment and within six months, direct care staff shall attend four hours of training in cognitive impairment that meets the requirements of subsection C of this section. This training is counted toward meeting the annual training requirement for the first year. Previous training that meets the requirements of subsection C of this section and was completed in the year prior to employment is transferable if there is documentation of the training. The documented previous training is counted toward the required four hours but not toward the annual training requirement.

C. Curriculum for the training in cognitive impairment for direct care staff and administrators shall be developed by a qualified health professional or by a licensed social worker, shall be relevant to the population in care and shall include, but need not be limited to:

1. Explanation of cognitive impairments;

2. Resident care techniques;

3. Behavior management;

4. Communication skills;

5. Activity planning; and

6. Safety considerations.

D. Within the first month of employment, employees other than the administrator and direct care staff shall complete one hour of training on the nature and needs of residents with cognitive impairments relevant to the population in care.

22 VAC 40-72-1020. Doors and windows.

A. Doors leading to the outside shall have a system of security monitoring of residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare, such as door alarms, cameras, constant employee oversight, security bracelets that are part of an alarm system, or delayed egress mechanisms. Residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare may be limited but not prohibited from exiting the facility or any part thereof. Before limiting any resident from freely leaving the facility, the resident's record shall reflect the behavioral observations or other bases for determining that the resident has a serious cognitive impairment and an inability to recognize danger or protect his own safety and welfare.

B. There shall be protective devices on the bedroom and the bathroom windows of residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare and on windows in common areas accessible to these residents to prevent the windows from being opened wide enough for a resident to crawl through.

22 VAC 40-72-1030. Outdoor area.

The facility shall have a secured outdoor area for the residents' use or provide direct care staff supervision while residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare are outside.

22 VAC 40-72-1040. Indoor walking area.

The facility shall provide to residents free access to an indoor walking corridor or other indoor area that may be used for walking.

22 VAC 40-72-1050. Environmental precautions.

A. Special environmental precautions shall be taken by the facility to eliminate hazards to the safety and well-being of

residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare. Examples of environmental precautions include signs, carpet patterns and arrows that point the way, and reduction of background noise.

B. When there are indications that ordinary materials or objects may be harmful to a resident with a serious cognitive impairment who cannot recognize danger or protect his own safety and welfare, these materials or objects shall be inaccessible to the resident except under employee supervision.

Article 3.
Safe, Secure Environment.

22 VAC 40-72-1060. Applicability.

In order to be admitted or retained in a safe, secure environment as defined in 22 VAC 40-72-10, a resident must have a serious cognitive impairment due to a primary psychiatric diagnosis of dementia and be unable to recognize danger or protect his own safety and welfare. The requirements in this article apply when such residents reside in a safe, secure environment. These requirements apply only to the safe, secure environment.

EXCEPTION: A resident's spouse, parent, adult sibling or adult child who otherwise would not meet the criteria to reside in a safe, secure environment may reside in the special care unit if the spouse, parent, sibling or child so requests in writing, the facility agrees in writing and the resident, if capable of making the decision, agrees in writing. The written request and agreements must be maintained in the resident's file. The spouse, parent, sibling or child is considered a resident of the facility and as such 22 VAC 40-72 applies. The requirements of this section do not apply to this article.

22 VAC 40-72-1070. Assessment.

A. Prior to his admission to a safe, secure environment, the resident shall have been assessed by an independent clinical psychologist licensed to practice in the Commonwealth or by an independent physician as having a serious cognitive impairment due to a primary psychiatric diagnosis of dementia with an inability to recognize danger or protect his own safety and welfare. The physician shall be board certified or board eligible in a specialty or subspecialty relevant to the diagnosis and treatment of serious cognitive impairments, e.g., family practice, geriatrics, internal medicine, neurology, neurosurgery, or psychiatry. The assessment shall be in writing and shall include, but not be limited to, the following areas:

1. Cognitive functions, e.g., orientation, comprehension, problem-solving, attention/concentration, memory, intelligence, abstract reasoning, judgment, insight;

2. Thought and perception, e.g., process, content;

3. Mood/affect;

4. Behavior/psychomotor;

5. Speech/language; and

6. Appearance.

B. The assessment required in subsection A of this section shall be maintained in the resident's record.

22 VAC 40-72-1080. Approval.

A. Prior to placing a resident with a serious cognitive impairment due to a primary psychiatric diagnosis of dementia in a safe, secure environment, the facility shall obtain the written approval of one of the following persons, in the following order of priority:

1. The resident, if capable of making an informed decision;

2. A guardian or other legal representative for the resident if one has been appointed;

3. A relative who is willing and able to take responsibility to act as the resident's representative, in the following specified order: (i) spouse, (ii) adult child, (iii) parent, (iv) adult sibling, (v) adult grandchild, (vi) adult niece or nephew, (vii) aunt or uncle; or

4. If the resident is not capable of making an informed decision and a guardian, legal representative or relative is unavailable, an independent physician who is skilled and knowledgeable in the diagnosis and treatment of dementia.

B. The obtained written approval shall be retained in the resident's file.

C. The facility shall document that the order of priority specified in subsection A of this section was followed and the documentation shall be retained in the resident's file.

NOTE: As soon as one of the persons in the order as prioritized above disapproves of placement or retention in the safe, secure environment, then the assisted living facility shall not place or retain the resident or prospective resident in the special care unit. If the resident is not to be retained in the unit, the discharge requirements specified in 22 VAC 40-72-420 apply.

22 VAC 40-72-1090. Appropriateness of placement and continued residence.

A. Prior to admitting a resident with a serious cognitive impairment due to a primary psychiatric diagnosis of dementia to a safe, secure environment, the licensee/administrator or designee shall determine whether placement in the special care unit is appropriate. The determination and justification for the decision shall be in writing and shall be retained in the resident's file.

B. Six months after the completion of the initial uniform assessment instrument and thereafter at the time of completion of each subsequent uniform assessment instrument as required in 22 VAC 40-72-430, the licensee/administrator or designee shall perform a review of the appropriateness of each resident's continued residence in the special care unit. The licensee/administrator or designee shall also perform a review of the appropriateness of continued residence in the unit whenever warranted by a change in a resident's condition. The review shall be performed in consultation with the following persons, as appropriate: (i) the resident, (ii) a responsible family member, (iii) a guardian or other legal representative, (iv) designated

contact person, (vi) direct care staff who provide care and supervision to the resident, (vi) the resident's mental health provider, (vii) the licensed health care professional required in 22 VAC 40-72-480, (viii) the resident's physician, and (ix) any other professional involved with the resident. The licensee/administrator or designee shall make a determination as to whether continued residence in the special care unit is appropriate at the time of each review required by this subsection. The determination and justification for the decision shall be in writing and shall be retained in the resident's file.

22 VAC 40-72-1100. Activities.

A. Each week a variety of scheduled activities shall be available that shall include, but not necessarily be limited to, the following categories:

1. Cognitive/mental stimulation/creative activities, e.g., discussion groups, reading, story telling, writing;

2. Physical activities (both gross and fine motor skills), e.g., exercise, dancing, gardening, cooking;

3. Productive/work activities, e.g., practicing life skills, setting the table, making decorations, folding clothes;

4. Social activities, e.g., games, music, arts and crafts;

5. Sensory activities, e.g., auditory, visual, scent and tactile stimulation;

6. Reflective/contemplative activities, e.g., meditation, reminiscing, and poetry readings;

7. Outdoor activities, weather permitting; e.g., walking outdoors, field trips; and

8. Nature/natural world activities, such as interaction with pets, making flower arrangements, watering indoor plants, and having a picnic.

NOTE: Several of the examples listed above may fall under more than one category.

NOTE: These activities do not require additional hours beyond those specified in 22 VAC 40-72-520.

B. If appropriate to meet the needs of the resident with a short attention span, there shall be multiple short activities.

C. Employees shall regularly encourage residents to participate in activities and provide guidance and assistance, as needed.

D. In addition to the scheduled activities required by 22 VAC 40-72-520, there shall be unscheduled employee and resident interaction throughout the day that fosters an environment that promotes socialization opportunities for residents.

E. Residents shall be given the opportunity to be outdoors on a daily basis, weather permitting.

F. As appropriate, residents shall be encouraged to participate in supervised activities or programs outside the special care unit.

G. There shall be a designated employee responsible for managing or coordinating the structured activities program. This employee shall be on-site in the special care unit at least 20 hours a week, shall maintain personal interaction with the residents and familiarity with their needs and interests, and shall meet at least one of the following qualifications:

1. Be a qualified therapeutic recreation specialist or an activities professional;

2. Be eligible for certification as a therapeutic recreation specialist or an activities professional by a recognized accrediting body;

3. Have one year full-time work experience, within the last five years, in an activities program in an adult care setting;

4. Be a qualified occupational therapist or an occupational therapy assistant; or

5. Prior to or within six months of employment, have successfully completed 40 hours of department-approved training in adult group activities and in recognizing and assessing the activity needs of residents.

NOTE: The required 20 hours on-site does not have to be devoted solely to managing or coordinating activities, neither is it required that the person responsible for managing or coordinating the activities program conduct the activities.

H. The facility shall obtain documentation of the qualifications as specified in subsection G of this section for the designated employee responsible for managing or coordinating the structured activities program. The documentation shall be retained in the employee's file. Written confirmation of department approval of training provided for in subdivision G 5 of this section shall also be retained in the employee's file, as appropriate.

22 VAC 40-72-1110. Staffing.

A. When residents are present, there shall be at least two direct care staff members awake and on duty at all times in each special care unit who shall be responsible for the care and supervision of the residents.

EXCEPTION: Only one direct care staff member has to be awake and on duty in the unit if sufficient to meet the needs of the residents, if (i) there are no more than five residents present in the unit and (ii) there are at least two other direct care staff members in the building, one of whom is readily available to assist with emergencies in the special care unit, provided that supervision necessary to ensure the health, safety and welfare of residents throughout the building is not compromised.

B. During trips away from the facility, there shall be sufficient direct care staff to provide sight and sound supervision to residents.

22 VAC 40-72-1120. Employee training.

A. Commencing immediately upon employment and within two months, the administrator and direct care staff shall attend at least four hours of training in cognitive impairments due to dementia. This training is counted toward meeting the

annual training requirement for the first year. The training shall cover the following topics:

1. Information about the cognitive impairment, including areas such as cause, progression, behaviors, management of the condition;

2. Communicating with the resident;

3. Managing dysfunctional behavior; and

4. Identifying and alleviating safety risks to residents with cognitive impairment.

Previous training that meets the requirements of this subsection and subsections C and D of this section that was completed in the year prior to employment is transferable if there is documentation of the training. The documented previous training is counted toward the required four hours but not toward the annual training requirement.

NOTE: In this subsection, for direct care staff, employment means employment in the safe, secure environment.

B. Within the first year of employment, the administrator and direct care staff shall attend at least six more hours of training, in addition to that required in subsection A of this section, in caring for residents with cognitive impairments due to dementia. The training is counted toward meeting the annual training requirement for the first year. The training shall cover the following topics:

1. Assessing resident needs and capabilities and understanding and implementing service plans;

2. Resident care techniques for persons with physical, cognitive, behavioral and social disabilities;

3. Creating a therapeutic environment;

4. Promoting resident dignity, independence, individuality, privacy and choice;

5. Communicating with families and other persons interested in the resident;

6. Planning and facilitating activities appropriate for each resident; and

7. Common behavioral problems and behavior management techniques.

Previous training that meets the requirements of this subsection and subsections C and D of this section that was completed in the year prior to employment is transferable if there is documentation of the training. The documented previous training is counted toward the required six hours but not toward the annual training requirement.

NOTE: In this subsection, for direct care staff, employment means employment in the safe, secure environment.

C. The training required in subsections A and B of this section shall be developed by:

1. A licensed health care professional acting within the scope of the requirements of his profession who has at least 12 hours of training in the care of individuals with cognitive impairments due to dementia; or

2. A person who has been approved by the department to develop the training.

D. The training required in subsections A and B of this section shall be provided by a person qualified under subdivision C 1 of this section or a person who has been approved by the department to provide the training.

E. Within the first month of employment, employees, other than the administrator and direct care staff, who will have contact with residents in the special care unit shall complete one hour of training on the nature and needs of residents with cognitive impairments due to dementia.

22 VAC 40-72-1130. Doors and windows.

A. Doors that lead to unprotected areas shall be monitored or secured through devices that conform to applicable building and fire codes, including but not limited to, door alarms, cameras, constant employee oversight, security bracelets that are part of an alarm system, pressure pads at doorways, delayed egress mechanisms, locking devices or perimeter fence gates. Residents who reside in safe, secure, environments may be prohibited from exiting the facility or the special care unit, if applicable building and fire codes are met.

B. There shall be protective devices on the bedroom and bathroom windows of residents and on windows in common areas accessible to residents to prevent the windows from being opened wide enough for a resident to crawl through.

C. As of October 9, 2001, buildings approved for construction or change in use group, as referenced in 13 VAC 5-63, the Virginia Statewide Building Code, shall have a glazed window area above ground level in at least one of the common rooms, e.g., living room, multipurpose room, dining room. The square footage of the glazed window area shall be at least 8.0% of the square footage of the floor area of the common room.

22 VAC 40-72-1140. Outdoor area.

The facility shall have a secured outdoor area for the residents' use or provide direct care staff supervision while residents are outside.

22 VAC 40-72-1150. Indoor walking area.

The facility shall provide to residents free access to an indoor walking corridor or other indoor area that may be used for walking.

22 VAC 40-72-1160. Environmental precautions.

A. Special environmental precautions shall be taken by the facility to eliminate hazards to the safety and well-being of residents. Examples of environmental precautions include signs, carpet patterns and arrows that point the way, high visual contrast between floors and walls, and reduction of background noise.

B. When there are indications that ordinary materials or objects may be harmful to a resident, these materials or objects shall be inaccessible to the resident except under employee supervision.

C. Special environmental enhancements, tailored to the population in care, shall be provided by the facility to enable

residents to maximize their independence and to promote their dignity in comfortable surroundings. Examples of environmental enhancements include memory boxes, activity centers, rocking chairs, and visual contrast between plates/eating utensils and the table.

DOCUMENTS INCORPORATED BY REFERENCE

Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DMS-IV-TR), Copyright 2000, American Psychiatric Association, 1400 K Street NW, Washington, DC 20005, www.psych.org.

NOTICE: The forms used in administering 22 VAC 40-72, Standards and Regulations for Licensed Assisted Living Facilities, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Social Services, 7 North Eighth Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Initial Application for a State License to Operate an Assisted Living Facility, 032-05-009/4 (rev. 9/02).

Renewal Application for a State License to Operate an Assisted Living Facility, 032-05-025/4 (rev. 9/02).

VA.R. Doc. No. R05-134; Filed July 17, 2006, 9:07 a.m.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

(Continued Below)

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
22 VAC 40-71-10 * (advance directive, behavior management, employee, imminent physical threat or danger, legal representative, manager, outbreak, private pay, risk management, sanitizing, significant change, and skills training)	22 VAC 40-72-10	This section includes definitions of words and terms used in the regulation.	The proposed change adds definitions for the following words or terms: advance directive, behavior management, cardiopulmonary resuscitation, employee, good character and reputation, high risk behavior, imminent physical threat or danger, legal representative, manager, medication aide, mentally ill, mentally retarded, outbreak, private pay, qualified, qualified mental health professional, risk management, sanitizing, significant change, skills training, and substance abuse. These definitions were added to clarify existing concepts and define new concepts.
*	22 VAC 40-72-30		The proposed change adds requirements related to dedicated hospice facilities. The purpose of this additional section is to coordinate regulations and enforcement when a place is both an assisted living facility and a dedicated hospice facility.
22 VAC 40-71-50 * (#2, #3, #4)	22 VAC 40-72-50	This section specifies the responsibilities, qualifications, and training required for licensees.	The proposed changes to the section include: 1) adding a requirement that the licensee meet the criminal background check regulation, 2) clarifying that the licensee must exercise supervision over the facility and establish operational policies, 3) specifying that the licensee must develop and maintain an operating budget, and 4) requiring the licensee to provide advance notification of voluntary closure or impending sale, with updates upon request. The criminal background check requirement is specified in law as a result of legislation passed by the 2005 General Assembly, and it provides increased assurances regarding the background of those the Department licenses. More specification about the responsibilities of the licensee strengthens the provision and continuity of services to residents. Advance notice of closure alerts residents and their families to the necessity for relocation or to possible changes in

			services or rates, and also gives them time to make new arrangements, if necessary or desired.
	22 VAC 40-72-60		The proposed change adds a provision for consistent public disclosure that describes services, fees, criteria for admission, transfer and discharge, number and qualifications of staff, provision of activities, rules regarding resident conduct, and facility ownership structure. The requirement for public disclosure of specified information is based upon changes to the law made as a result of legislation passed by the 2005 General Assembly. Disclosure provides prospective residents and their families information that allows for comparison of facilities and enables them to make an informed choice.
*	22 VAC 40-72-70		The proposed change adds a requirement for a written risk management plan. The rationale for such a plan is to ensure that management examines and reduces risks to residents in order to better protect the population in care.
*	22 VAC 40-72-80		The proposed change adds a requirement for a quality improvement program, to include self-assessment based on examination of specified items, and development and implementation of plans to correct deficiencies and improve care. The purpose of the new requirement is to strengthen facility management and accountability for results.
*	22 VAC 40-72-90		The proposed change adds a requirement for an infection control program, with specified elements to be included. The purpose of the change is to provide a necessary safeguard, as there are more debilitated residents in care and an increasing number of residents with antibiotic resistant infections.
22 VAC 40-71-430 *	22 VAC 40-72-100	The current standard provides that facilities report to the Department major incidents that have or could threaten the health, safety or welfare of residents or staff.	The proposed change adds specific occurrences that must be reported and provides instructions regarding documentation and reporting of incidents and occurrences. The purpose of the change is to clarify and strengthen the current standard.
*	22 VAC 40-72-110		The proposed standard adds a requirement that facilities provide demographic and clinical data about residents to the Department, upon request but no more than twice yearly. The rationale for this new provision is to provide better information for planning and training purposes, and this

			information is to be shared with providers.
*	22 VAC 40-72-160		The proposed changes add requirements for job descriptions for all positions and for annual employee performance evaluations. Also included in the proposed standard is a requirement for verification of employee credentials and training. The intent of these changes is to increase resident well-being through improved employee performance resulting from better knowledge and direction regarding job expectations, and to ensure employee credentials.
22 VAC 40-71-80 *	22 VAC 40-72-180	The current standard specifies requirements for new employee orientation.	The proposed changes add to employee orientation the following training topics: 1) the facility's policies and procedures, handling of resident emergencies, infection control measures, incident reporting, and for direct care staff, information on residents' needs, preferences and routines. The purpose of these changes is to improve care and provide increased protection to residents. The intent includes an emphasis on person-centered care.
22 VAC 40-71-60 * (#2)	22 VAC 40-72-190	The current requirement relates to administrator responsibilities.	The proposed changes provide for 1) appointment of a qualified acting administrator when an administrator terminates employment, 2) strengthening and clarifying administrator responsibilities, 3) at least 24 of the 40 hours being on week days during the day shift; 4) a written schedule for the administrator. The purpose of these changes is to ensure appropriate and adequate oversight of facilities. These requirements are based on a change in the law resulting from 2005 General Assembly legislation, except for strengthening and clarifying administrator responsibilities.
22 VAC 40-71-60 and 22 VAC 40-71-630 *	22 VAC 40-72-200	The current requirement for administrator qualifications specifies the education and experience required for the position, providing for differences based on the level of care for which a facility is licensed.	The proposed changes increase educational requirements for administrators, providing for differences based on the level of care for which a facility is licensed. Provisions are made for the grandfathering of current administrators, although those who were grandfathered in the previous standards who are administrators in facilities licensed for assisted living care are required to complete a department approved course. The intent of the changes is for administrators to have increased knowledge in order to better manage an increasingly complex operation.

22 VAC 40-71-60 *** (**#1, #2)	22 VAC 40-72-210	The current requirement specifies training mandated for administrators.	The proposed changes add the following requirements: 1) new administrator training, grandfathering in current administrators, 2) refresher training for administrators when standards are revised, unless determined unnecessary by the Department, and 3) medication training for administrators under certain circumstances. The purpose of these changes is to increase protection of residents by ensuring administrators are knowledgeable in a timely fashion about standards and that resident safety is enhanced by improved management and supervision of medication aides. The requirement regarding medication training is based on changes in the law resulting from legislation passed by the 2005 General Assembly.
	22 VAC 40-72-220		The proposed change adds a provision for a shared administrator for smaller facilities under certain circumstances, allowing an administrator to be present for fewer than 40 hours at a given facility, without a designated assistant who meets the qualifications of an administrator. The intent of this standard is to reduce costs while maintaining adequate administrative function. The proposed standard is based on a change in the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-60 *****	22 VAC 40-72-230	The current requirement specifies under what conditions a person may serve as the administrator of both an assisted living facility and a nursing home.	The proposed change increases the educational and training requirements for the manager position, which is a necessary position if the administrator of both an assisted living facility and a nursing home does not provide direct management of the assisted living facility. Current managers are grandfathered. The purpose of this change is to upgrade the qualifications and training of the person who is responsible for the day to day management of the facility, in order to improve services and provide greater protection for residents.
	22 VAC 40-72-240		The proposed change provides for a designated direct care staff person to be in charge when the administrator, designated assistant, or manager is not on duty at the facility. The rationale for this change is to ensure someone is responsible for overseeing the facility at all times. The proposed standard is based on a change in the law resulting from legislation passed by the 2005 General Assembly.

22 VAC 40-71-630	22 VAC 40-72-250	The current requirement specifies that direct care staff who care for residents at the assisted living level of care must complete specified training within four months of employment.	The proposed change requires that direct care staff who care for residents at the assisted living level of care must complete specified training within two months of employment. Another change adds graduation from an approved personal care aide training program to the training options available. The intent of these changes is to assure staff are trained as quickly as reasonable possible for improved staff performance and to offer more flexibility in training options. The proposed changes are based on a revision to the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-80 and 22 VAC 40-71-630	22 VAC 40-72-260	There are currently annual training requirements for direct care staff. The current annual training requirement for direct care staff serving the assisted living level of care is 12 hours.	One of the proposed changes is to require that the annual direct care staff training must commence within 60 days of employment. Another proposed change is an increase to 16 hours in the annual training required for direct care staff serving the assisted living level of care except for licensed health care professionals and certified nurse aides who would be required to attend 12 hours of annual training. The intent of requiring training to commence within 60 days of employment is to prevent facilities from waiting until employees' 11th or 12th month for them to receive their annual training. The purpose of the increase in training hours is to increase the ability of staff to do their jobs well. The proposed changes are based on a revision to the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-100 *	22 VAC 40-72-280	The standard currently specifies requirements regarding volunteers.	The proposed changes include additional requirements for supervision, orientation, and records of volunteers. The purpose of the changes is to ensure the safety of residents and volunteers, and to provide clearer direction to volunteers regarding their duties.
22 VAC 20-71-110 *	22 VAC 40-72-290	There is a current requirement for tuberculosis tests for employees.	The proposed change requires risk assessments for tuberculosis. The purpose of the change is to comply with the current guidelines of the Virginia Department of Health.
22 VAC 40-71-120	22 VAC 40-72-300	Currently, the standard requires at least one staff member at all times with current first aid certification and one with current CPR certification.	The proposed changes add requirements that 1) all direct care staff have current first aid certification, 2) there be additional staff with CPR certification in larger facilities, and 3) there be an employee with current first aid and CPR present at facility sponsored activities off the premises and when an employee transports residents. The purpose of these changes is to avoid delays in

			securing emergency support. The proposed changes are based on a revision to the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-130 ***** (staffing plan and work schedules)	22 VAC 40-72-320	The current standard includes staffing requirements.	The proposed changes add requirements for a written direct care staffing plan based upon resident acuity levels and individualized care needs and for written work schedules, and eliminate the allowance for smaller facilities to permit the staff person on duty to sleep during the night. The purpose of these changes is to ensure adequate staffing to meet the needs of residents. The proposed change regarding the elimination of allowing a staff person to sleep at night is based on a revision to the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-150 ***** (requirements when care for gastric tubes is provided by unlicensed staff)	22 VAC 40-72-340	The standard includes requirements for admission to an assisted living facility.	One of the proposed changes adds an assessment of psychological, behavioral, and emotional functioning, if recommended for a resident, to the information needed for the facility to make a decision regarding admission. The intent of this change is to ensure that the facility has adequate information to determine whether it can meet the needs of the resident. The proposed change is based on a revision to the law resulting from legislation passed by the 2005 General Assembly. Another of the proposed changes is the addition of requirements when care for gastric tubes is provided by unlicensed direct care staff. The intent of this requirement is to provide protection to residents receiving gastric tube care from unlicensed staff, as allowed by a revision to the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-150 *****	22 VAC 40-72-350	There is a current requirement for tuberculosis tests for residents.	The proposed changes require risk assessments for tuberculosis and add an annual assessment for residents. The purpose of the changes is to comply with the current guidelines of the Virginia Department of Health and provide further protection for the health of residents.
	22 VAC 40-72-360		The proposed changes add requirements for 1) an evaluation of a resident by a qualified mental health professional when there are indications of mental illness, mental retardation, substance abuse, or behavioral disorders, 2) notification of a contact person and a mental health services provider when the evaluation indicates a need for such services, and 3) the collection of collateral information for individuals with mental health disabilities. The purpose of

			the changes is to ensure that residents with mental health problems are properly assessed and receive appropriate care. The proposed changes are based on a revision to the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-150 *	22 VAC 40-72-390	The current requirement specifies the items to be included in the agreement between the resident and the facility.	The proposed changes add a few items to be included in the agreement between the resident and the facility and require the facility to annually review with the resident the terms of the agreement. The intent of the changes is to ensure that residents are aware of the terms of the agreement and their residency in the facility.
*	22 VAC 40-72-400		The proposed change adds a requirement for orientation for new residents and their legal representatives. The intent of this change is to assure residents and their representatives are aware of facility routines from the beginning in order to allow a smoother transition and protect the welfare of the resident.
22 VAC 40-71-160 *	22 VAC 40-72-420	The current standard includes requirements when a resident is discharged from an assisted living facility.	The proposed changes include additional provisions regarding notification of discharge and reduction in the maximum number of days notice a facility may require from a resident who wishes to move. The intent of the changes are to ensure proper notification of discharge and to bring time frames for resident initiated notice closer to those for facility initiated notice.
22 VAC 40-71-170 *	22 VAC 40-72-430	The current standard includes requirements for completion of the uniform assessment instrument.	The proposed changes add a requirement that facility employees who complete the uniform assessment instrument (UAI) for private pay residents receive department approved training and that residents are advised of the right to appeal the outcome of the assessment. The purpose of the changes is to ensure that employees are well trained in completion of the UAI and that residents are aware of their right to appeal the assessment.
22 VAC 40-71-170 *	22 VAC 40-72-440	The current standard includes requirements for completion of the individualized service plan.	The proposed changes 1) add a requirement for staff training on the completion of the individualized service plan (ISP), 2) shorten time frames for completion of the ISP, 3) make an allowance for deviation from the plan, and 4) require documentation of outcomes and progress toward reaching expected outcomes. The purpose of the changes is to improve ISPs so that the needs of residents are better addressed.
22 VAC 40-71-420	22 VAC 40-72-450	The current standard includes requirements for hygiene and	The proposed changes provide for 1) resident-centered care, 2) observation of residents for changes in functioning, 3)

*		grooming.	notification requirements when residents fall or wander, 4) communication between an employee and a resident in a language the resident understands, and 5) resident access to preferred personal care items when possible. The intent of the changes is that residents receive appropriate care and services based on their individualized needs.
22 VAC 40-71-420 *	22 VAC 40-72-460	The current standard includes requirements for health care.	The proposed changes add more specific requirements regarding the provision of health care. The intent of the changes is to ensure that needed health care is provided to residents in a timely manner.
22 VAC 40-71-630 * (#1, #2, #3, except for oversight of the medication management plan and maintenance of medication reference materials)	22 VAC 40-72-480	The current standard requires quarterly health care oversight by a licensed health care professional for residents at the assisted living care level of care.	The proposed changes add requirements for 1) the licensed health care professional to have two years of experience in adult residential or day care, 2) residents at the residential living level of care to be provided health care oversight at least every six months, and 3) additional responsibilities to be included in the health care oversight. The purpose of the changes is to increase health care oversight by broadening it to include residents at both levels of care and by adding certain responsibilities, and to improve the oversight by requiring health care professionals to have experience in adult residential or day care. The additional responsibility related to medication is based upon a revision to the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-670	22 VAC 40-72-500	The current standard includes requirements for agreements and coordination with mental health service agencies.	The proposed change requires a facility to evaluate ability to retain mentally impaired residents when recommended mental health services cannot be obtained. The purpose of the change is to protect residents and others, and to provide information on the accountability of community services. The proposed changes are based on a revision to the law resulting from legislation passed by the 2005 General Assembly.
	22 VAC 40-72-510		The proposed changes require 1) referral to mental health providers when a resident exhibits or indicates an intent to engage in high risk behavior, 2) if needed, the development of a behavioral management tracking form, 3) training for facility staff who care for residents with high risk behavior, and 4) special conditions to be met for use of a restrictive behavioral management plan. The purpose of the changes is to reduce risks to residents with mental disorders and increase safety, and to

			improve services to residents who exhibit high risk behavior. The proposed changes relating to referral and training are based on revisions to the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-260 and 22 VAC 40-71-650 *	22 VAC 40-72-520	The current standards specify the requirements for activities for residents.	The proposed changes provide for greater variety in available activities, for involvement of residents and employees in planning activities, and for improved implementation of the activity program. The intent of the changes is to offer an activity program that is of increased interest and benefit to residents.
22 VAC 40-71-280 *	22 VAC 40-72-540	The current standard specifies requirements related to visiting in the facility.	The proposed change adds a requirement that a facility encourage family involvement with a resident and provide opportunities for family participation in facility activities. The intent of the change is to promote continued connectedness.
22 VAC 40-71-270 *	22 VAC 40-72-550	The current standard specifies requirements regarding resident rights.	The proposed changes add an annual review of resident rights with employees and a requirement that a facility follow up when a physician did not record a resident's inability to understand rights that is later questioned. The purpose of the changes is to remind employees about resident rights and to emphasize their importance and to stop the presumption that a resident understands his rights in the face of contrary evidence.
22 VAC 40-71-330 *	22 VAC 40-72-580	The current standard provides that residents eat their meals in the dining area, with exceptions for when a resident is ill or has independent living status and a kitchen.	One of the proposed changes provides for residents to have the option of eating in their rooms if the facility offers routine or regular room service. The intent of this change is to allow greater flexibility and to support resident choice. Another proposed change adds a requirement that residents have a minimum of 30 minutes to eat. The intent of the change is to ensure that residents have adequate time to finish their meals. Another proposed change includes the monitoring of residents' food consumption and intervention when nutritional problems are suspected. The intent of this change is to protect the health of residents.
22 VAC 40-71-370 *	22 VAC 40-72-610	The current requirement is for availability of a bedtime snack.	The proposed change adds availability of snacks between meals. The intent of the change is to provide more food for residents who eat smaller meals due to disability or medications and to allow all residents to have the opportunity for a snack in between meals, which is consistent with the "homelike" atmosphere that assisted living facilities market to the public.
22 VAC 40-71-	22 VAC 40-	The current standard	The proposed changes add requirements

380 *****	72-620	contains requirements for menus and special diets.	for 1) having a dietary manual, 2) quarterly oversight of special diets by a dietitian or nutritionist, and 3) availability of drinking water. The purpose of the changes is to improve nutrition and hydration and to ensure that special diets are prepared and provided appropriately.
22 VAC 40-71-400	22 VAC 40-72-630	The current standard specifies requirements for the administration of medications to residents and related services.	The proposed changes add requirements for 1) a medication management plan that addresses procedures related to administering medications to residents and is approved by the department, and 2) maintenance of medication reference materials. The intent of the changes is to improve administration of medications and reduce the possibility of medication errors. The proposed changes are based on revisions to the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-400	22 VAC 40-72-640	The current standard specifies requirements for the administration of medications to residents and related services.	The proposed changes add requirements for new orders for medication and treatment when a resident returns from a hospital, and for the content of and the taking of physicians' orders. The intent of these changes is to ensure that residents receive medications properly. The proposed changes are based on revisions to the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-400	22 VAC 40-72-650	The current standard specifies requirements for the administration of medications to residents and related services.	The proposed changes add requirements for the storage of controlled substances and other medications. The intent of the changes is to protect the safety of residents. The proposed changes are based on revisions to the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-400 ***** (#1, #4)	22 VAC 40-72-660	The current standard specifies requirements for the administration of medications to residents and related services.	The proposed changes 1) increase the qualifications of medication aides who care for residents at the residential living level of care, grandfathering in current medication aides, 2) add annual in-service training for medication aides, 3) add a requirement for a refresher course every three years for medication aides, and 4) add a requirement regarding supervision of medication aides. The purpose of the changes is to have more qualified and better trained and supervised medication aides to reduce errors in medication administration. The proposed changes related to in-service training and the refresher course are based on revisions to the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-400	22 VAC 40-72-670	The current standard specifies requirements for the administration of	The proposed changes 1) eliminate the option of pre-pouring medications, 2) add a requirement that medications be

		medications to residents and related services.	administered in accordance with the resource guide approved by the Board of Nursing, and 3) specify when a stat-drug box may be used. The purpose of these changes is to reduce errors in the administration of drugs and regarding the stat-drug box, to comply with Board of Pharmacy regulations. The proposed changes are based on revisions to the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-650	22 VAC 40-72-680	The current requirement is for an annual review of medications of residents in the assisted living level of care.	The proposed changes 1) add a requirement for an annual review of medications of residents in the residential living level of care, except for those who self-administer, 2) increase the review of medications to every six months for residents in the assisted living level of care, and 3) specify that which needs to be covered in the review. The purpose of the changes is to add protections for residents and to ensure the review is done properly. The proposed changes are based on revisions to the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-470 *	22 VAC 40-72-700	The current standard contains requirements for the use of restraints.	The proposed changes eliminate the requirement for a written plan to reduce the use of restraints in a facility and add notification requirements when restraints are used. The intent of eliminating the written plan is to delete a requirement that has proved to be unnecessary, since restraint reduction is focused on the individual resident. The purpose of adding notification requirements is to increase protection to residents.
22 VAC 40-71-200 *	22 VAC 40-72-720	The current standard contains requirements related to a resident's personal possessions.	The proposed change adds a requirement that a facility implement a policy regarding procedures to follow when a resident's personal possession is missing. The intent of the change is to provide assistance to a resident in recovering a missing item and to reduce future losses.
22 VAC 40-71-310 and 22 VAC 40-71-320 *	22 VAC 40-72-810	The current requirements provide for a resident council, except when the majority of residents do not want one, and provide for the residents determining the duties of the	The proposed changes increase a facility's responsibilities for supporting a resident council, eliminate the exception regarding the council when the majority of residents do not want one, and address the purposes of the council. The intent of these changes is to strengthen the chances of having a successful resident council, which would give residents a more active role in working

		council.	with management.
*	22 VAC 40-72-820		The proposed change adds requirements regarding pets living in the facility, if the facility allows pets to live on the premises. The purpose of the change is to ensure that pets are healthy and well-treated, do not compromise the rights, preferences, or medical needs of any resident, and do not pose a significant health or safety risk.
*	22 VAC 40-72-830		The proposed change adds requirements for pets that visit the facility, if the facility allows pets to visit. The intent of the change is to ensure that pets are in good health and well-treated, that resident's rights, preferences and medical needs are not compromised, and that pets do not pose a significant health or safety risk.
22 VAC 40-71-490 *	22 VAC 40-72-840	The current requirement is for facilities to develop and implement a policy regarding weapons that ensures the safety of residents and staff.	The proposed change adds a requirement that facilities that allow firearms on the premises must ensure that ammunitions and firearms are stored separately and in locked locations. The purpose of the change is to protect residents and staff.
22 VAC 40-71-500 *	22 VAC 40-72-850	The current standard contains requirements for the maintenance of buildings and grounds.	The proposed change adds a requirement for a schedule for preventive maintenance and a schedule for cleaning and housekeeping. The intent of the change is to ensure that buildings and grounds are well-maintained for the safety and well-being of residents.
22 VAC 40-71-510 *	22 VAC 40-72-860	The current standard contains requirements for heating, ventilation, and cooling.	The proposed changes 1) lower the inside temperature from 85 to 82 degrees for the use of cooling devices, 2) add a requirement that the largest common area used by residents be air conditioned six months after the effective date of the regulations, 3) add a requirement for air conditioning for new construction or change in use group, 4) add a requirement that as of six years after the effective date of the standards, the facility be air conditioned. The purpose of the changes is to protect the health and well-being of residents, many of whom are elderly or on medications. A fan is insufficient in this climate.
22 VAC 40-71-530 *	22 VAC 40-72-880	The current requirement allows an occupancy of up to four residents in a bedroom.	The proposed change decreases the allowed occupancy in a bedroom to no more than two residents for new construction or change in use group. The intent of the change is to provide greater privacy and dignity for residents.
22 VAC 40-71-540	22 VAC 40-72-890	The current requirement is for one toilet for seven	The proposed changes require for new construction or change in use group one toilet for four residents, one sink for four

*		residents, one sink for seven residents, and one tub or shower for 10 residents on floors with residents' bedrooms, with related provisions.	residents, and one tub or shower for seven residents on floors with residents' bedrooms, with related provisions. The proposed changes also provide for an additional toilet or sink for common use on floors with resident rooms and the main living or dining area when there is new construction or change in use group. The purpose of the changes is to improve access to bathrooms for populations with uncertain continence and to provide greater dignity to residents.
22 VAC 40-71-590 *	22 VAC 40-72-930	The current standard contains requirements for emergency procedures.	The proposed changes add requirements for an emergency preparedness and response plan that is developed in accordance with a department approved manual and that addresses specified topic areas, and for quarterly reviews on emergency preparedness. The intent of the changes is to ensure that facilities are better prepared for both natural and man-made disasters.
22 VAC 40-71-570 *	22 VAC 40-72-940	The current standard contains requirements for fire plans.	The proposed change broadens plans to include other emergencies as well as fire. The intent of the change is for the facility to be better prepared to meet all types of emergencies.
22 VAC 40-71-580 *	22 VAC 40-72-950	The current standard contains requirements for fire drills in the facility.	The proposed change requires evacuation drills, rather than fire drills. The intent of the change is to broaden the type of emergencies for which a facility will be prepared.
22 VAC 40-71-120 and 22 VAC 40-71-390 *	22 VAC 40-72-960	The current requirements specify the content of the first aid kit and mandate a 72 hour emergency food and drinking water supply.	The proposed changes 1) add a few required items to the first aid kit, 2) add a requirement that there be a first aid kit on facility motor vehicles that transport residents, 3)add a requirement that first aid kits be checked quarterly to ensure items are present and not expired, 4) add a requirement that by 07/01/07, facilities with six or more residents are able to connect to a temporary electrical power source and have either an emergency generator or access to one through contract, 5) add a requirement that there be an alternative form of communication in addition to the telephone, and 6) increase the supply of emergency food and drinking water to a 96 hour supply and add generator fuel and oxygen for residents using oxygen to supply requirements. The intent of the changes is to protect resident safety and to ensure a facility's ability to respond to an emergency situation. The proposed change regarding the emergency generator is based on revisions to the law resulting from legislation

			passed by the 2004 General Assembly.
22 VAC 40-71-590 *	22 VAC 40-72-970	The current standard contains requirements for emergency procedures.	The proposed change adds a requirement that a facility have a plan for resident emergencies and that employees practice procedures for resident emergencies. The purpose of the change is to increase protection of the safety and welfare of residents.
22 VAC 40-71-700 *	22 VAC 40-72-1100	The current requirement contains categories of activities to be available to residents in special care units.	The proposed change adds two categories of required activities to be available to residents in special care units. The intent of the change is to add other areas of interest and to provide increased variety of activities for the benefit of residents.

The asterisk indicates the changes made in the proposed regulation that are not included in the emergency regulation. When a part(s) of the proposed change is included in the emergency regulation, the part(s) not included are marked with an asterisk, and those parts are specified in parenthesis. Numbers appearing in parenthesis correspond to the fourth column of this chart, “Proposed change and rationale.”